

| | | | | | | | |
|---|------|--|--|--|---|---|--|
| SOLICITATION, OFFER AND AWARD | | | 1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) | | RATING DO A3 | PAGE OF PAGES 1 76 | |
| 2. CONTRACT NO. | | 3. SOLICITATION NO. N00167-01-R-0020 | | 4. TYPE OF SOLICITATION [] SEALED BID (IFB) [X] NEGOTIATED (RFP) | 5. DATE ISSUED 21 May 2001 | 6. REQUISITION/PURCHASE NO. 12080658 | |
| 7. ISSUED BY NAVAL SURFACE WARFARE CENTER, CARDEROCK CODE 3321, CATHERINE ROWE 9500 MACARTHUR BLVD. WEST BETHESDA MD 20817-5700 | | | CODE N00167 TEL: 301-227-1100 FAX: 301-227-3476 | 8. ADDRESS OFFER TO (If other than Item 7) See Item 7 | | CODE TEL: FAX: | |
| NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder". | | | | | | | |
| SOLICITATION | | | | | | | |
| 9. Sealed offers in original and <u>4</u> copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if handcarried, in the depository located in <u>Building 121 Room 200</u> until <u>14 00</u> local time <u>26 Jun 2001</u> (Hour) (Date) | | | | | | | |
| CAUTION - LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation. | | | | | | | |
| 10. FOR INFORMATION CALL: | | A. NAME CATHERINE ROWE | | B. TELEPHONE (Include area code)(NO COLLECT CALLS) (301) 227-1100 | | C. E-MAIL ADDRESS RoweCL@nswccd.navy.mil | |
| 11. TABLE OF CONTENTS | | | | | | | |
| (X) | SEC. | DESCRIPTION | | PAGE(S) | (X) | SEC. | DESCRIPTION |
| PART I - THE SCHEDULE | | | | | PART II - CONTRACT CLAUSES | | |
| X | A | SOLICITATION/ CONTRACT FORM | | 1 | X | I | CONTRACT CLAUSES |
| X | B | SUPPLIES OR SERVICES AND PRICES/ COSTS | | 2 | PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS | | |
| X | C | DESCRIPTION/ SPECS./ WORK STATEMENT | | 4 | X | J | LIST OF ATTACHMENTS |
| X | D | PACKAGING AND MARKING | | 8 | PART IV - REPRESENTATIONS AND INSTRUCTIONS | | |
| X | E | INSPECTION AND ACCEPTANCE | | 9 | X | K | REPRESENTATIONS, CERTIFICATIONS AND |
| X | F | DELIVERIES OR PERFORMANCE | | 10 | | | OTHER STATEMENTS OF OFFERORS |
| X | G | CONTRACT ADMINISTRATION DATA | | 11 | X | L | INSTRS., CONDS., AND NOTICES TO OFFERORS |
| X | H | SPECIAL CONTRACT REQUIREMENTS | | 13 | X | M | EVALUATION FACTORS FOR AWARD |
| OFFER (Must be fully completed by offeror) | | | | | | | |
| NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period. | | | | | | | |
| 12. In compliance with the above, the undersigned agrees, if this offer is accepted within _____ calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule. | | | | | | | |
| 13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232-8) | | | | | | | |
| 14. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated): | | | | AMENDMENT NO. | | DATE | |
| | | | | | | | |
| | | | | | | | |
| 15A. NAME AND ADDRESS OF OFFEROR | | CODE | FACILITY | | 16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print) | | |
| 15B. TELEPHONE NO (Include area code) | | 15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE. <input type="checkbox"/> | | | 17. SIGNATURE | | 18. OFFER DATE |
| AWARD (To be completed by Government) | | | | | | | |
| 19. ACCEPTED AS TO ITEMS NUMBERED | | 20. AMOUNT | | 21. ACCOUNTING AND APPROPRIATION | | | |
| 22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c)() <input type="checkbox"/> 41 U.S.C. 253(c)() | | | | 23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified) | | ITEM | |
| 24. ADMINISTERED BY (If other than Item 7) | | CODE | 25. PAYMENT WILL BE MADE BY | | CODE | | |
| 26. NAME OF CONTRACTING OFFICER (Type or print) | | | | 27. UNITED STATES OF AMERICA (Signature of Contracting Officer) | | 28. AWARD DATE | |
| IMPORTANT - Award will be made on this Form, or on Standard Form 26, or by other authorized official written notice. | | | | | | | |

SECTION B Supplies or Services and Prices

| ITEM NO | SUPPLIES/SERVICES | QUANTITY | UNIT | UNIT PRICE | AMOUNT |
|---------|---|----------|------|------------|--------|
| 0001 | Engineering and Analytical services in the area of Machinery Development in accordance with Section C - Statement of Work. Labor costs are based on labor categories and hours as specified in Section L. | | | | |

* Support Costs at actual cost plus applicable indirect costs only.

*Subcontracting (miscellaneous and incidental) at actual costs plus applicable indirect costs only.

ESTIMATED COST

**FIXED FEE

TOTAL COST PLUS FIXED FEE

| | | | | | |
|------|---|--|--|--|--|
| 0002 | Data in accordance with the DD Form 1423 attached to this contract or to individual task orders issued hereunder. | | | | |
|------|---|--|--|--|--|

***NSP

The contract period of performance is from the effective date of the contract through five (5) years thereafter. This is an Indefinite Delivery/Indefinite Quantity, Cost Plus Fixed Fee (Completion) type contract. This contract does not include any options.

***Support Costs and Subcontracting:** Support Costs and Miscellaneous/Incidental Subcontracting Costs shall be included in the costs of CLIN 0001. Support Costs at actual costs plus applicable indirect costs only. Support Costs consist of incidental materials, travel, and miscellaneous costs and are not fee bearing. The value to be assumed for the Support Costs (excluding the indirect costs) in any offer under this solicitation shall be **\$2,500,000.00**. Subcontracting (miscellaneous and incidental) shall be in accordance with FAR 52.244-2 and will be reimbursed at actual costs plus applicable indirect costs only. The value to be assumed for the Subcontracting (excluding the indirect costs) in any offer under this solicitation shall be **\$2,500,000.00**.

****Fixed Fee:** The fixed fee included in response to this solicitation should include fee for the prime contractor as well as any subcontractors which have been identified as teaming partners in the offeror's proposal. Therefore, individual task orders negotiated under this contract will determine the fee amount for the order by applying a pro-rata share of this fixed fee to the total estimated costs for the prime, subcontract(s), and consultants negotiated for individual task orders, exclusive of the costs for Support Costs and Subcontracts that are miscellaneous and/or incidental.

*****NSP:** not separately priced, included in the price of CLIN 0001.

Minimum and Maximum Quantities: As referred to in paragraph (b) of Clause No. 52.216 -22 - Indefinite Quantity, the contract minimum quantity is **\$25,000.00** and the maximum quantity is the Total Contract Amount. The

maximum quantity is not to be exceeded without prior written approval from the Procuring Contracting Officer (PCO).

Government Furnished Equipment/Material: The Government will provide Government Furnished Equipment and Government Furnished Material as may be required for performance of the services under the contract to the maximum extent possible.

In accordance with FAR 22.605(a)(5) and Contract Clause 52.222-20 - Walsh-Healey Public Contracts Act (December 1996), as regards supplies and material, the contractor shall:

- (1) ensure that any material/hardware items that cannot be obtained as GFE/GFM are obtained from manufacturers or regular dealers of these items in accordance with FAR 22.602.
- (2) obtain competition (items valued over \$2,500.00) whenever possible and shall report to the Contracting Officer the extent of competition sought, obtained, and efforts to ensure future competition for materials/hardware.

Rights in Technical Data and Computer Software: The Government shall have unlimited rights in the technical data and computer software delivered under this contract in accordance with, and as defined in Clause Nos. 252-227-7013 and 252.227-7014 which are contained in Section I of the contract.

Location Requirement: The location requirement is that the contractor must be located within a one (1) hour traveling distance of the Naval Surface Warfare Center Carderock Division, Philadelphia PA. The requirement is predicated on the fact that, at this time, it is the Government's best estimate that over the term of the contract, most of the services shall be performed at this site.

SECTION C Descriptions and Specifications

1.0 INTRODUCTION

1.1 Background.

The mission of the Naval Surface Warfare Center, Carderock Division (NSWCCD) Machinery Research and Development (R&D) Directorate is to perform research and development on naval shipboard machinery systems and equipment, including stealth, energy conservation, vulnerability, affordability, and maintainability. Functions include a full spectrum of technical capabilities in propulsion machinery, auxiliary machinery, electrical machinery, hull and deck machinery, submarine sail systems, habitability and hull outfitting machinery. The emphasis is on exploratory development which entails: developing and maintaining the expertise to design advanced machinery systems and equipment; providing the experimental facilities necessary to evaluate advanced and developmental machinery systems and equipment; and developing and validating fundamental concepts relating to machinery systems and equipment technologies (e.g., fluid mechanics, acoustics, electro-magnetics, and energy). The Directorate works in close coordination with other groups within the Naval Surface Warfare Center and the Naval Sea Systems Command to ensure a total ship systems engineering approach is maintained.

The efforts of the Directorate are exemplified by the divisional organizational units: Electrical Systems, Power Systems, Machinery Silencing, and Special Programs Departments. The work areas of the departments are aimed towards providing, at minimum cost, the present and future Navy with machinery systems that meet stated or implicit requirements for: new or extended depth, range, speed, and better control; quicker or more responsive action; quieter operation; greater life; higher reliability; and improved safety. The Directorate represents the only Navy organization that has the development of naval machinery for its primary mission.

Electrical Systems Department

Conducts R&D and develops improved equipment for electrical power generation, control, distribution, conditioning, protection, and utilization in ship service and propulsion and associated special electrical systems. Performs measurements and analyses of electro-acoustic sources and develops shipboard equipment and techniques to eliminate these sources.

Power Systems Department

Plans and conducts R&D to improve naval prime movers, with emphasis on gas turbine and diesel engines. Improves naval propulsion power transmission systems with emphasis on reduction gears, shafting, bearings, and seals. Develops and demonstrates naval auxiliary machinery, including high pressure air, fresh water production, HVAC systems, and hydraulic power and control systems. Develops advanced non-nuclear energy conversion and energy storage technology. Conducts R&D in machinery technologies such as fluid mechanics, structural analysis, heat transfer, power plant materials, and propulsion machinery maintenance and control devices. Develops and demonstrates technologies, methodologies, and systems to detect, diagnose, and predict machinery system condition for assessment of maintenance requirements and availability. Plans, manages, and conducts R&D in pulse power supplies for shipboard high energy loads.

Machinery Silencing Department

Identifies and assesses the military significance of noise/vibration sources in machinery systems on surface and subsurface vehicles. Analyzes and predicts acoustic and structural responses of shipboard machinery systems. Conducts R&D for noise/vibration reduction in machinery systems and components, and controlling noise transmission paths in shipboard installation. Performs acoustical design, analysis, and experimental verification of machinery, piping systems, and foundation structures. Performs experimental verification of acoustic design performance of shipboard machinery and piping systems. Performs instrumentation and measurement technique development for acoustic characterization of machinery, components, and structures.

Special Programs Department

Conducts machinery systems simulation and develops sensing, monitoring, and control components and systems. Evaluates ship Hull, Mechanical and Electrical (HM&E) systems for survivability and effectiveness in combat situations; and develops equipment and design and installation practices to enhance both. Conducts RDT&E to improve electro-magnetic signature control for surface ships and submarines. Operates and maintains the deep ocean pressure tanks, the Machinery Systems laboratory, and the Magnetic Fields laboratory. Assembles conceptual machinery system arrangements and analyzes their performance and ship impact for specific applications.

1.2 Implementation.

The contractor shall perform task assignments within the task areas generally described in section 2.0 below. NSWCCD will have overall control and responsibility for the projects for which written work assignments, hereinafter called "Task Orders," will be issued. A more detailed description of the required work within the scope of this contract will be provided in the task orders. The majority of the work entailed in these tasks shall require the contractor to make use of NSWCCD facilities and equipment, as outlined in the task orders. The contractor's control and responsibility shall be limited to the satisfactory execution of the work specified in the task orders.

The intent of this contract is to provide support to NSWCCD and NAVSEA in the form of engineering expertise on shipboard electrical and mechanical systems. Technical support for the installation of test and development hardware is also included as is associated program/project management and financial management support.

The contractor shall not, under any circumstances, be placed in the position of making any decisions that should be made by the Government, nor will the contractor, acting alone, produce any documents that represent a Government position. However, the contractor may be tasked to produce parts of documents (not involving direct or indirect performance of Government decision making) and may also be tasked to produce, as a convenience to the Government, an end-use document where the Government functions (i.e., decisions and position) are completely the work of the Government.

2.0 SCOPE OF WORK

The support to be provided hereunder shall require expertise in the technical disciplines used in both specific scientific fields and broad multi-disciplinary engineering fields. The contractor shall provide services, incidental materials, facilities and personnel necessary to perform specific tasks within the following general tasking areas as specified on the individual task orders. In all cases, the contractor shall provide recommendations to the appropriate Government personnel and shall not make programmatic decisions on behalf of the Government.

2.1 Program Planning and Management.

(a) PROGRAM PLANNING/STATUS - Develop program planning documentation such as Program Plans, Test Objectives, Plans of Action and Milestones, and program issue papers for future research. Analysis of technical goals and/or facility requirements to support the research, development, test and evaluation (RDT&E) of HM&E systems. This analysis may require the identification of resources, identification of planning shortfalls, facility site surveys, and recommendations for successful completion. Coordination of contractor and Government progress towards the completion of planned events.

(b) DOCUMENT PREPARATION AND REVIEW - Prepare technical and management reports that document efforts conducted in each of the task areas within the scope of this contract. Reports may be informal summary type reports or drafts of formal technical reports. Reports may summarize activities by the contractor, the Government, and/or other Government prime item development contractors. Assist in the review of Government furnished technical documentation and provide comments relative to established technical objectives. Prepare military equipment specifications and equipment acquisition specifications in support of Navy program offices.

(c) PRESENTATION MATERIAL - Prepare recommended inputs for program/project briefings and presentations. Prepare presentation materials such as viewgraphs and videotapes. Provide support of technical writing and report publication, design and implementation of web sites, development and population of digital databases, and related services.

(d) BUDGET/FINANCIAL REVIEW - Perform cost versus effort studies. Prepare financial status reports tracking both internal and program wide progress. Prepare updates for financial/technical plans of action and milestones.

2.2 Shipboard Technology Research.

(a) DEVICE/COMPONENT DEVELOPMENT - Perform analytical and engineering support for the development, fabrication, and demonstration of new HM&E devices/components. This may include reviewing device designs, observing manufacture and factory testing, development of prototype device topologies, and test setup and conduct. Evaluate Navy equipment applications and performance of trade-off assessments of component characteristics identifying potential risks/benefits. Evaluate the thermal properties and packaging requirements for new devices. Conduct market research to determine the availability of commercial-off-the-shelf (COTS) solutions. Develop piping system components for fluid, pneumatic, and hydraulic systems.

(b) MODELING/SIMULATION - Develop analytical and finite element models of alternative hull, mechanical, and electrical concepts capable of simulating both the operational and structural characteristics of the concepts including electric power generation and distribution, thermal, acoustic, and electro-magnetic (EM) prediction and control. Devise methods and models to perform total ship system engineering and total ownership cost analysis to evaluate Navy equipment applications. Exercise methods and models to perform trade-off assessments of machinery system and component characteristics identifying potential cost/performance benefits.

(c) MATERIALS STUDIES - Planning, organization and conduct of material studies which includes the preparation and testing of specimens and interpretation of their microstructure, and the development of sample preparation techniques for new materials.

(d) SYSTEMS ENGINEERING - Analysis and evaluation of electrical/mechanical system and sub-system designs recommended for Navy ship applications with emphasis on stability, steady-state and transient performance, continuity, quality, and survivability. Analysis of device, equipment, subsystem and system interactions within a combined environment with emphasis on interface definitions and control. Review and provide comments to system interface specifications, functional requirements, and component specifications including applications to machinery acoustics and open architecture machinery and electrical systems. Optimization of machinery manning requirements for given systems by performing trade-offs to optimize machinery automation versus crew size, performing human factors analysis to optimize man/machine interfaces, and evaluating design and cost impacts due to manning changes. Devise methods to predict reliability and maintainability (R&M) performance for new machinery systems, exercise the methods, evaluate cost impact, collect field data, and validate predicted performance and assess R&M requirements.

(e) SIGNATURES - Analysis and study of the reduction of infrared, acoustic, and electromagnetic signatures for existing and proposed surface and subsurface vehicles and craft.

2.3 Component and System Test and Evaluation (T&E).

(a) TEST PLANNING - Perform analysis of Naval machinery test objectives and information needs associated with the development of new, or modifications to existing, sub-scale and full-scale T&E facilities. Conduct ship checks and provide installation plans for RDT&E demonstration equipment and shipboard hardware for HM&E tests and evaluations. Provide plans for full-scale trials (speed/power, noise, etc.).

(b) TEST SETUP - Develop measurement system concepts employing commercial and special purpose sensor, signal conditioning and transmission, signal recording and processing, and on-line display devices. Design, fabricate, calibrate and operate data gathering, reduction, and analysis systems necessary to evaluate HM&E system designs as to performance, shock, vibration, and signature characteristics. Assemble equipment components, install equipment, validate and verify test setup and test suite operating software, conduct operability verification (shakedown) tests, and calibrate equipment for Navy laboratory and test craft testing. Install equipment on Navy surface ships and submarines and other demonstration platforms as necessary to facilitate testing.

(c) **TEST CONDUCT** - Conduct component and system testing and data collection. Acquire all necessary components and systems for test and evaluation conduct. Perform data acquisition, reduction and analysis of advanced naval machinery and structures testing relative to hull and machinery vibration, platform noise, cavitation, EM, and related performance evaluations. Support trials by collecting and analyzing data, calibrating instrumentation, and providing on-site technical support.

(d) **TEST REPORTING** - Perform analysis of data collected by the contractor or the Navy and provide conclusions drawn from the results. Preparation of data packages and supporting documentation from on-site data acquisition and post-trial data reduction evolution. Prepare test plans, test procedures and test reports. Test plans shall identify tests to be conducted, general test method, testing schedule, and data to be acquired. A complete list of test cases shall be included in the test plan. Test reports shall include test objectives, procedure summaries, test results, and conclusions for the tests identified in the scope of work.

4.0 Technical Data Requirements

Technical data requirements will be specified in each task order. The type of data to be generated shall include but may not be limited to: technical reports, assessments, analyses, manuals, historical summaries, program overviews, presentation materials/handouts, brochures/pamphlets, draft specifications, technology plans, data packages, documentation of requirements, analysis studies, production/work support activities evaluations, and documentation. In addition to the specific technical data requirements for each task order, the following report shall be prepared for the contract as a whole:

(a) Letter Status Report (ELIN A001 OF EXHIBIT A)

The contractor shall provide one (1) copy of a letter-type status report monthly which shall briefly describe the work performed during each reporting period together with the significant results thereof. The report shall describe any problems encountered and propose solutions for their resolution. The report shall further provide the current technical and financial status of the effort. Electronic submission of this report is acceptable provided a suitable format can be agreed to between the contractor and the contract COR. The narrative for each task order shall be as concise as possible given the relative complexity of the associated efforts (no more than 2 paragraphs as a guide). The financial status of the contract shall be presented with a single table showing the task order numbers as row titles and column headings including CLIN amounts, present incremental funding, monthly expenditures, cumulative expenditures, balances, and expiration date. Appropriate column headings shall be further broken down by labor, materials/travel, and incidental subcontracting.

5.0 Technical Conferences

Contractor personnel shall be available for informal conferences with NSWCCD technical personnel as required throughout performance to discuss the direction, progress, and/or significant problems encountered, and to discuss technical and fiscal information required for performance of each task order.

7.0 Security Requirements

During the performance of this contract, the contractor shall be required to have access to, and may be required to receive, generate, and store information classified to the level of SECRET. Therefore, Contractor facilities used in support of this contract must be granted SECRET facility clearances and have the capability to store material classified up to and including SECRET.

SECTION D Packaging and Marking

The items to be delivered under this contract shall be packaged and marked in accordance with the Contractor's standard practices.

SECTION E Inspection and Acceptance

CLAUSES INCORPORATED BY REFERENCE:

| | | |
|--------------|---|----------|
| 52.246-3 | Inspection Of Supplies Cost-Reimbursement | MAY 2001 |
| 52.246-5 | Inspection Of Services Cost-Reimbursement | APR 1984 |
| 252.246-7000 | Material Inspection And Receiving Report | DEC 1991 |

SECTION F Deliveries or Performance

CLAUSES INCORPORATED BY REFERENCE:

| | | |
|-----------|--|----------|
| 52.242-15 | Stop-Work Order | AUG 1989 |
| 52.247-34 | F.O.B. Destination | NOV 1991 |
| 52.247-55 | F.O.B. Point For Delivery Of Government-Furnished Property | APR 1984 |

CLAUSES INCORPORATED BY FULL TEXT

52.211-8 TIME OF DELIVERY (JUN 1997)

The contract ordering period shall be from the effective date of the contract through five (5) years thereafter.

The contract performance period shall be from the effective date of the contract through ninety (90) days after the end of the ordering period.

SECTION G Contract Administration Data

CLAUSES INCORPORATED BY REFERENCE:

252.242-7000 Postaward Conference

DEC 1991

CLAUSES INCORPORATED BY FULL TEXT

REPORTING REQUIREMENTS (JUN 1996) (NSWCCD)

A status report shall be submitted on a monthly basis to the Procuring Contracting Officer, Contracting Officer's Representative, Ordering Officer (if applicable) and Administrative Contracting Officer. The report shall provide the number of hours expended, the total cost incurred to date, data status and delivery status.

REPORTING REQUIREMENTS (JUN 1996) (NSWCCD)

A status report shall be submitted on a monthly basis to the Procuring Contracting Officer, Contracting Officer's Representative, Ordering Officer (if applicable) and Administrative Contracting Officer. The report shall provide the number of hours expended, the total cost incurred to date, data status and delivery status.

5252.232-9001 SUBMISSION OF INVOICES (COST-REIMBURSEMENT, TIME-AND-MATERIALS, LABOR-HOUR, OR FIXED PRICE INCENTIVE) (JUL 1992)

(a) "Invoice" as used in this clause includes contractor requests for interim payments using public vouchers (SF 1034) but does not include contractor requests for progress payments under fixed price incentive contracts.

(b) The Contractor shall submit invoices and any necessary supporting documentation, in an original and copies, to the (To be specified at time of award) at the following address: (To be inserted at time of award)

unless delivery orders are applicable, in which case invoices will be segregated by individual order and submitted to the address specified in the order. In addition, an information copy shall be submitted to (To be inserted at time of award).

Following verification, the (To be specified at time of award) will forward the invoice to the designated payment office for payment in the amount determined to be owing, in accordance with the applicable payment (and fee) clause(s) of this contract.

(c) Invoices requesting interim payments shall be submitted no more than once every two weeks, unless another time period is specified in the Payments clause of this contract. For indefinite delivery type contracts, interim payment invoices shall be submitted no more than once every two weeks for each delivery order. There shall be a lapse of no more than calendar days between performance and submission of an interim payment invoice..

(d) In addition to the information identified in the Prompt Payment clause herein, each invoice shall contain the following information, as applicable:

- (1) Contract line item number (CLIN)
- (2) Subline item number (SLIN)
- (3) Accounting Classification Reference Number (ACRN)

- (4) Payment terms
- (5) Procuring activity
- (6) Date supplies provided or services performed
- (7) Costs incurred and allowable under the contract
- (8) Vessel (e.g., ship, submarine or other craft) or system for which supply/service is provided

(e) A DD Form 250, "Material Inspection and Receiving Report", is required only with the final invoice.

(f) A Certificate of Performance is not required.

(g) The Contractor's final invoice shall be identified as such, and shall list all other invoices (if any) previously tendered under this contract.

(h) Costs of performance shall be segregated, accumulated and invoiced to the appropriate ACRN categories to the extent possible. When such segregation of costs by ACRN is not possible for invoices submitted with CLINS/SLINS with more than one ACRN, an allocation ratio shall be established in the same ratio as the obligations cited in the accounting data so that costs are allocated on a proportional basis.

(i) When a vendor invoice for a foreign currency is provided as supporting documentation, the Contractor shall identify the foreign currency and indicate on the vendor invoice the rate of exchange on the date of payment by the Contractor. The Contractor shall also attach a copy of the bank draft or other suitable documents showing the rate of exchange. The contractor shall provide an English translation if the vendor invoice is written in a foreign language.

SECTION H Special Contract Requirements

CLAUSES INCORPORATED BY FULL TEXT

PAYMENT OF FIXED-FEE UNDER COST-PLUS-FIXED-FEE (COMPLETION) INDEFINITE QUANTITY CONTRACTS (APR 2001) (NSWCCD)

(a) The orders issued under this contract shall be of the cost-plus-fixed-fee completion form. Each order will describe the scope of work by stating a definite goal or target and specifying an end product that normally will take the form of a final report. This completion form provides for payment to the contractor of a negotiated fee that is fixed at the inception of the order. In as much as the orders are issued under the authority of the base contract, the fee fixed for individual orders will be distributed at the same proportional rate to the estimated cost of the order as the fixed-fee is proportional to the estimated cost in the base contract. This method of fee distribution is for administrative convenience and is not establishing the fee amount on the estimated cost of each order since the fee established in the base contract was established by use of weighted guidelines or competitive cost realism.

(b) The fixed fee does not vary with actual cost, but may be subject to an equitable adjustment as a result of changes in the work to be performed under the order. The order shall require the contractor to complete and deliver the specified end product (e.g., a final report of research accomplishing the goal or target) within the estimated cost, if possible, as a condition for payment of the entire fixed fee. However, in the event the work cannot be completed within the estimated cost, the Government may require more effort without increase in fee, provided the Government increases the estimated cost.

(c) The cost-plus-fixed-fee completion form necessarily involves uncertainties in the performance of each order, and alterations or variations made by the Contractor during performance of the order normally are not subject to an equitable adjustment in fee. Examples of such alterations or variations include a shift in emphasis among work areas or tasks, filling in details to complete the general description of work, or refinements in approaches or proposed solutions. Consequently, the Contractor will be entitled to an equitable adjustment in the fixed fee only when the Contracting Officer changes the work to be performed under an order by issuing a written order pursuant to the Changes-Cost Reimbursement clause of this contract.

PAST PERFORMANCE ASSESSMENT (SERVICES, INFORMATION TECHNOLOGY OR OPERATIONS SUPPORT) (APR 2000)

(a) The contractor, in performing this contract, will be subject to a past performance assessment in accordance with FAR 42.15, the Department of the Navy Contractor Performance Assessment Reporting System (CPARS) Guide (herein referred to as the Navy CPARS Guide), and the CPARS Users Manual in effect on the date of award. All information contained in this assessment may be used, within the limitations of FAR 42.15, by the Government for future source selection in accordance with FAR 15.304 when past performance is an evaluation factor for award. The assessment (herein referred to as the Contractor Performance Assessment Report (CPAR)) will be prepared by government personnel and reviewed by contractor personnel, via on-line, at the CPARS Web Site <http://www.nslcptsmh.navsea.navy.mil/cparmenu.htm>. The CPAR will be prepared on an annual basis as determined by the Contracting Officer, with interim and final assessments as prescribed by the Navy CPARS guide. The Navy CPARS guide, the CPARS Users Manual and additional CPARS information can be found at the above CPARS Web Site.

(b) Access to the CPAR will require user id/passwords which will be provided to the contractor prior to the initial report due date. Utilizing the user id/passwords, contractor personnel will be able to review the CPAR and will have a 30-calendar-day period in which to agree/disagree with the ratings, enter comments, rebut statements or add information on an optional basis. After contractor input or 30 days from the date of government notification of CPAR availability, whichever occurs first, the CPAR will be reviewed by the government. The government will have the option of accepting or modifying the original ratings. The contractor will then be notified when the completed CPAR is posted in the CPARS web site. The CPAR is not subject to the Disputes clause of the contract, nor is it subject to appeal beyond the review and comment procedure described above and in the Navy CPARS Guide.

(c) The contractor will be assessed on the following elements:

(1) *Quality of Product or Service*: Compliance with contract requirements, contract specifications and to standards of good workmanship.

(2) *Schedule*: Contractor's timeliness in completing contract or task order milestones, delivery schedules, and administrative requirements.

(3) *Cost Control (Not required for FFP or FFP/EPA)*: The contractor's effectiveness in forecasting, managing, and controlling contract cost.

(4) *Business Relations*: The integration and coordination of all activity needed to execute the contract, specifically;

(A) Timeliness, completeness and quality of problem identification, corrective action plans, proposal submittals;

(B) The contractor's history of reasonable and cooperative behavior;

(C) Customer satisfaction;

(D) Timely award and management of subcontracts;

(E) Success in meeting or exceeding small/small disadvantaged and women-owned business participation goals.

(5) *Management of Key Personnel (Not Applicable to Operations Support)*: The contractor's performance in selecting, retaining, supporting, and replacing, when necessary, key personnel.

(6) *Other Areas (If applicable)*:

(d) The following adjectival ratings and criteria shall be used when assessing all past performance elements:

(1) *Dark Blue (Exceptional)*. Performance meets contractual requirements and exceeds many to the Government's benefit. The contractual performance of the element or sub-element being assessed was accomplished with few minor problems for which corrective actions taken by the contractor were highly effective.

(2) *Purple (Very Good)*. Performance meets contractual requirements and exceeds some to the Government's benefit. The contractual performance of the element or sub-element being assessed was accomplished with some minor problems for which corrective actions taken by the contractor were effective.

(3) *Green (Satisfactory)*. Performance meets contractual requirements. The contractual performance of the element or sub-element contains some minor problems for which corrective actions taken by the contractor appear or were satisfactory.

(4) *Yellow (Marginal)*. Performance does not meet some contractual requirements. The contractual performance of the element or sub-element being assessed reflects a serious problem for which the contractor has not yet identified corrective actions. The contractor's proposed actions appear only marginally effective or were not fully implemented.

(5) *Red (Unsatisfactory)*. Performance does not meet most contractual requirements and recovery is not likely in a timely manner. The contractual performance of the element or sub-element contains serious problem(s) for which the contractor's corrective actions appear or were ineffective.

SECTION I Contract Clauses

CLAUSES INCORPORATED BY REFERENCE:

| | | |
|-----------|--|----------|
| 52.202-1 | Definitions | MAY 2001 |
| 52.203-3 | Gratuities | APR 1984 |
| 52.203-5 | Covenant Against Contingent Fees | APR 1984 |
| 52.203-6 | Restrictions On Subcontractor Sales To The Government | JUL 1995 |
| 52.203-7 | Anti-Kickback Procedures | JUL 1995 |
| 52.203-8 | Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity | JAN 1997 |
| 52.203-10 | Price Or Fee Adjustment For Illegal Or Improper Activity | JAN 1997 |
| 52.203-12 | Limitation On Payments To Influence Certain Federal Transactions | JUN 1997 |
| 52.204-2 | Security Requirements | AUG 1996 |
| 52.204-4 | Printed or Copied Double-Sided on Recycled Paper | AUG 2000 |
| 52.209-6 | Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment | JUL 1995 |
| 52.211-15 | Defense Priority And Allocation Requirements | SEP 1990 |
| 52.215-2 | Audit and Records--Negotiation | JUN 1999 |
| 52.215-8 | Order of Precedence--Uniform Contract Format | OCT 1997 |
| 52.215-9 | Changes or Additions to Make-or-Buy Program | OCT 1997 |
| 52.215-11 | Price Reduction for Defective Cost or Pricing Data--Modifications | OCT 1997 |
| 52.215-13 | Subcontractor Cost or Pricing Data--Modifications | OCT 1997 |
| 52.215-14 | Integrity of Unit Prices | OCT 1997 |
| 52.215-15 | Pension Adjustments and Asset Reversions | DEC 1998 |
| 52.215-18 | Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other than Pensions | OCT 1997 |
| 52.215-21 | Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data--Modifications | OCT 1997 |
| 52.216-7 | Allowable Cost And Payment | MAR 2000 |
| 52.216-8 | Fixed Fee | MAR 1997 |
| 52.219-8 | Utilization of Small Business Concerns | OCT 2000 |
| 52.219-9 | Small Business Subcontracting Plan | OCT 2000 |
| 52.219-16 | Liquidated Damages-Subcontracting Plan | JAN 1999 |
| 52.219-25 | Small Disadvantaged Business Participation Program--Disadvantaged Status and Reporting | OCT 1999 |
| 52.222-3 | Convict Labor | AUG 1996 |
| 52.222-21 | Prohibition Of Segregated Facilities | FEB 1999 |
| 52.222-26 | Equal Opportunity | FEB 1999 |
| 52.222-35 | Affirmative Action For Disabled Veterans And Veterans of the Vietnam Era | APR 1998 |
| 52.222-36 | Affirmative Action For Workers With Disabilities | JUN 1998 |
| 52.222-37 | Employment Reports On Disabled Veterans And Veterans Of The Vietnam Era | JAN 1999 |
| 52.223-5 | Pollution Prevention and Right-to-Know Information | APR 1998 |
| 52.223-6 | Drug Free Workplace | MAY 2001 |
| 52.223-14 | Toxic Chemical Release Reporting | OCT 2000 |
| 52.225-8 | Duty-Free Entry | FEB 2000 |
| 52.225-13 | Restrictions on Certain Foreign Purchases | JUL 2000 |
| 52.226-1 | Utilization Of Indian Organizations And Indian-Owned Economic Enterprises | JUN 2000 |
| 52.227-1 | Authorization and Consent | JUL 1995 |

| | | |
|-----------------|--|----------|
| 52.227-2 | Notice And Assistance Regarding Patent And Copyright Infringement | AUG 1996 |
| 52.228-7 | Insurance--Liability To Third Persons | MAR 1996 |
| 52.230-2 | Cost Accounting Standards | APR 1998 |
| 52.230-6 | Administration of Cost Accounting Standards | NOV 1999 |
| 52.232-9 | Limitation On Withholding Of Payments | APR 1984 |
| 52.232-17 | Interest | JUN 1996 |
| 52.232-20 | Limitation Of Cost | APR 1984 |
| 52.232-22 | Limitation Of Funds | APR 1984 |
| 52.232-23 | Assignment Of Claims | JAN 1986 |
| 52.232-25 | Prompt Payment | MAY 2001 |
| 52.232-33 | Payment by Electronic Funds Transfer--Central Contractor Registration | MAY 1999 |
| 52.233-1 | Disputes | DEC 1998 |
| 52.233-3 Alt I | Protest After Award (Aug 1996) - Alternate I | JUN 1985 |
| 52.237-2 | Protection Of Government Buildings, Equipment, And Vegetation | APR 1984 |
| 52.242-1 | Notice of Intent to Disallow Costs | APR 1984 |
| 52.242-3 | Penalties for Unallowable Costs | MAY 2001 |
| 52.242-4 | Certification of Final Indirect Costs | JAN 1997 |
| 52.242-13 | Bankruptcy | JUL 1995 |
| 52.243-2 Alt II | Changes--Cost Reimbursement (Aug 1987) - Alternate II | APR 1984 |
| 52.244-5 | Competition In Subcontracting | DEC 1996 |
| 52.246-25 | Limitation Of Liability--Services | FEB 1997 |
| 52.248-1 | Value Engineering | FEB 2000 |
| 52.249-6 | Termination (Cost Reimbursement) | SEP 1996 |
| 52.249-14 | Excusable Delays | APR 1984 |
| 52.253-1 | Computer Generated Forms | JAN 1991 |
| 252.201-7000 | Contracting Officer's Representative | DEC 1991 |
| 252.203-7001 | Prohibition On Persons Convicted of Fraud or Other Defense-Contract-Related Felonies | MAR 1999 |
| 252.203-7002 | Display Of DOD Hotline Poster | DEC 1991 |
| 252.204-7003 | Control Of Government Personnel Work Product | APR 1992 |
| 252.204-7004 | Required Central Contractor Registration | MAR 2000 |
| 252.204-7005 | Oral Attestation of Security Responsibilities | AUG 1999 |
| 252.205-7000 | Provisions Of Information To Cooperative Agreement Holders | DEC 1991 |
| 252.209-7000 | Acquisition From Subcontractors Subject To On-Site Inspection Under The Intermediate Range Nuclear Forces (INF) Treaty | NOV 1995 |
| 252.209-7004 | Subcontracting With Firms That Are Owned or Controlled By The Government of a Terrorist Country | MAR 1998 |
| 252.215-7000 | Pricing Adjustments | DEC 1991 |
| 252.219-7003 | Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DOD Contracts) | APR 1996 |
| 252.223-7004 | Drug Free Work Force | SEP 1988 |
| 252.223-7006 | Prohibition On Storage And Disposal Of Toxic And Hazardous Materials | APR 1993 |
| 252.225-7001 | Buy American Act And Balance Of Payments Program | MAR 1998 |
| 252.225-7002 | Qualifying Country Sources As Subcontractors | DEC 1991 |
| 252.225-7009 | Duty-Free Entry--Qualifying Country Supplies (End Products and Components) | AUG 2000 |
| 252.225-7010 | Duty-Free Entry--Additional Provisions | AUG 2000 |
| 252.225-7012 | Preference For Certain Domestic Commodities | AUG 2000 |
| 252.225-7026 | Reporting Of Contract Performance Outside The United States | JUN 2000 |
| 252.225-7031 | Secondary Arab Boycott Of Israel | JUN 1992 |
| 252.227-7015 | Technical Data--Commercial Items | NOV 1995 |
| 252.227-7016 | Rights in Bid or Proposal Information | JUN 1995 |

| | | |
|--------------|--|----------|
| 252.227-7019 | Validation of Asserted Restrictions--Computer Software | JUN 1995 |
| 252.227-7025 | Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends | JUN 1995 |
| 252.227-7027 | Deferred Ordering Of Technical Data Or Computer Software | APR 1988 |
| 252.227-7030 | Technical Data--Withholding Of Payment | MAR 2000 |
| 252.227-7036 | Declaration of Technical Data Conformity | JAN 1997 |
| 252.227-7037 | Validation of Restrictive Markings on Technical Data | SEP 1999 |
| 252.231-7000 | Supplemental Cost Principles | DEC 1991 |
| 252.242-7004 | Material Management And Accounting System | DEC 2000 |
| 252.243-7002 | Requests for Equitable Adjustment | MAR 1998 |
| 252.244-7000 | Subcontracts for Commercial Items and Commercial Components (DoD Contracts) | MAR 2000 |
| 252.245-7001 | Reports Of Government Property | MAY 1994 |
| 252.247-7023 | Transportation of Supplies by Sea | MAR 2000 |
| 252.247-7024 | Notification Of Transportation Of Supplies By Sea | MAR 2000 |
| 252.248-7000 | Preparation Of Value Engineering Change Proposal | MAY 1994 |

CLAUSES INCORPORATED BY FULL TEXT

52.215-19 NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997)

(a) The Contractor shall make the following notifications in writing:

(1) When the Contractor becomes aware that a change in its ownership has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify the Administrative Contracting Officer (ACO) within 30 days.

(2) The Contractor shall also notify the ACO within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership.

(b) The Contractor shall--

(1) Maintain current, accurate, and complete inventory records of assets and their costs;

(2) Provide the ACO or designated representative ready access to the records upon request;

(3) Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership changes; and

(4) Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership change.

The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirement of FAR 15.408(k).

(End of clause)

52.216-18 ORDERING. (OCT 1995)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from the effective date of contract through five (5) years thereafter.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

52.216-19 ORDER LIMITATIONS. (OCT 1995)

(a) Minimum order. When the Government requires supplies or services covered by this contract in an amount of less than **\$5,000.00**, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) Maximum order. The Contractor is not obligated to honor:

(1) Any order for a single item in excess of **\$3,000,000.00**;

(2) A series of orders from the same ordering office within **five (5)** days that together exceed \$6,000,000.00.

(c) If this is a requirements contract (i.e., includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) above.

(d) Notwithstanding paragraphs (b) and (c) above, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within **five (5)** days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

52.216-22 INDEFINITE QUANTITY. (OCT 1995)

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum". The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum".

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract ninety (90) days after the end of the ordering period.

52.219-4 NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS (JAN 1999)

(a) Definition. HUBZone small business concern, as used in this clause, means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

(b) Evaluation preference. (1) Offers will be evaluated by adding a factor of 10 percent to the price of all offers, except--

(i) Offers from HUBZone small business concerns that have not waived the evaluation preference;

(ii) Otherwise successful offers from small business concerns;

(iii) Otherwise successful offers of eligible products under the Trade Agreements Act when the dollar threshold for application of the Act is exceeded (see 25.402 of the Federal Acquisition Regulation (FAR)); and

(iv) Otherwise successful offers where application of the factor would be inconsistent with a Memorandum of Understanding or other international agreement with a foreign government.

(2) The factor of 10 percent shall be applied on a line item basis or to any group of items on which award may be made. Other evaluation factors described in the solicitation shall be applied before application of the factor.

(3) A concern that is both a HUBZone small business concern and a small disadvantaged business concern will receive the benefit of both the HUBZone small business price evaluation preference and the small disadvantaged business price evaluation adjustment (see FAR clause 52.219-23). Each applicable price evaluation preference or adjustment shall be calculated independently against an offeror's base offer.

These individual preference amounts shall be added together to arrive at the total evaluated price for that offer.

(c) Waiver of evaluation preference. A HUBZone small business concern may elect to waive the evaluation preference, in which case the factor will be added to its offer for evaluation purposes. The agreements in paragraph (d) of this clause do not apply if the offeror has waived the evaluation preference.

___ Offeror elects to waive the evaluation preference.

(d) Agreement. A HUBZone small business concern agrees that in the performance of the contract, in the case of a contract for

(1) Services (except construction), at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern or employees of other HUBZone small business concerns;

(2) Supplies (other than procurement from a nonmanufacturer of such supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern or other HUBZone small business concerns;

(3) General construction, at least 15 percent of the cost of the contract performance incurred for personnel will be spent on the concern's employees or the employees of other HUBZone small business concerns; or

(4) Construction by special trade contractors, at least 25 percent of the cost of the contract performance incurred for personnel will be spent on the concern's employees or the employees of other HUBZone small business concerns.

(e) A HUBZone joint venture agrees that in the performance of the contract, the applicable percentage specified in paragraph (d) of this clause will be performed by the HUBZone small business participant or participants.

(f) A HUBZone small business concern nonmanufacturer agrees to furnish in performing this contract only end items manufactured or produced by HUBZone small business manufacturer concerns. This paragraph does not apply in connection with construction or service contracts.

(End of clause)

52.222-2 PAYMENT FOR OVERTIME PREMIUMS (JUL 1990)

(a) The use of overtime is authorized under this contract if the overtime premium cost does not exceed (To be inserted at time of award) or the overtime premium is paid for work --

(1) Necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(2) By indirect-labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(3) To perform tests, industrial processes, laboratory procedures, loading or unloading of transportation conveyances, and operations in flight or afloat that are continuous in nature and cannot reasonably be interrupted or completed otherwise; or

(4) That will result in lower overall costs to the Government.

(b) Any request for estimated overtime premiums that exceeds the amount specified above shall include all estimated overtime for contract completion and shall--

(1) Identify the work unit; e.g., department or section in which the requested overtime will be used, together with present workload, staffing, and other data of the affected unit sufficient to permit the Contracting Officer to evaluate the necessity for the overtime;

(2) Demonstrate the effect that denial of the request will have on the contract delivery or performance schedule;

(3) Identify the extent to which approval of overtime would affect the performance or payments in connection with other Government contracts, together with identification of each affected contract; and

(4) Provide reasons why the required work cannot be performed by using multishift operations or by employing additional personnel.

(End of clause)

52.227-12 PATENT RIGHTS--RETENTION BY THE CONTRACTOR (LONG FORM) (JAN 1997)

(a) Definitions. "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the United States Code or any novel variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321, et seq.).

"Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

"Nonprofit organization" means a domestic university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

"Practical application" means to manufacture in the case of a composition or product, to practice in the case of a

process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

"Small business firm" means a small business concern as defined at section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

"Subject invention" means any invention of the Contractor conceived or first actually reduced to practice in the performance of work under this contract; provided, that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of contract performance.

(b) Allocation of principal rights. The Contractor may elect to retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor elects to retain title, the Federal Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) Invention disclosure, election of title, and filing of patent applications by Contractor. (1) The Contractor shall disclose each subject invention to the Contracting Officer within 2 months after the inventor discloses it in writing to Contractor personnel responsible for patent matters or within 6 months after the Contractor becomes aware that a subject invention has been made, whichever is earlier. The disclosure to the Contracting Officer shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and physical, chemical, biological, or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale, or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the Contracting Officer, the Contractor shall promptly notify the Contracting Officer of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor.

(2) The Contractor shall elect in writing whether or not to retain title to any such invention by notifying the Federal agency at the time of disclosure or within 8 months of disclosure, as to those countries (including the United States) in which the Contractor will retain title; provided, that in any case where publication, on sale, or public use has initiated the 1-year statutory period wherein valid patent protection can still be obtained in the United States, the period of election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Contractor shall file its initial patent application on an elected invention within 1 year after election or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Contractor shall file patent applications in additional countries (including the European Patent Office and under the Patent Cooperation Treaty) within either 10 months of the corresponding initial patent application or 6 months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure to the Contracting Officer, election, and filing may, at the discretion of the funding Federal agency, be granted, and will normally be granted unless the Contracting Officer has reason to believe that a particular extension would prejudice the Government's interest.

(d) Conditions when the Government may obtain title. The Contractor shall convey to the Federal agency, upon written request, title to any subject invention--

(1) If the Contractor elects not to retain title to a subject invention;

(2) If the Contractor fails to disclose or elect the subject invention within the times specified in paragraph (c) above (the agency may only request title within 60 days after learning of the Contractor's failure to report or elect within the specified times);

(3) In those countries in which the Contractor fails to file patent applications within the time specified in paragraph (c) above; provided, however, that if the Contractor has filed a patent application in a country after the times specified in paragraph (c) above, but prior to its receipt of the written request of the Federal agency, the Contractor shall continue to retain title in that country; or

(4) In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(e) Minimum rights to Contractor. (1) The Contractor shall retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title except if the Contractor fails to disclose the subject invention within the times specified in paragraph (c) above. The Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the funding Federal agency except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by the funding Federal agency to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions in the Federal Property Management Regulations and agency licensing regulations (if any). This license shall not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the funding Federal agency to the extent the Contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the funding Federal agency shall furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor shall be allowed 30 days (or such other time as may be authorized by the funding Federal agency for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable agency licensing regulations and 37 CFR 404 concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license.

(f) Contractor action to protect the Government's interest. (1) The Contractor agrees to execute or to have executed and promptly deliver to the Federal agency all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Contractor elects to retain title, and (ii) convey title to the Federal agency when requested under paragraph (d) above and subparagraph (n)(2) below, and to enable the Government to obtain patent protection throughout the world in that subject invention.

(2) The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c) above, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by subparagraph (c)(1) above. The Contractor shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Contractor shall notify the Federal agency of any decision not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any

country, not less than 30 days before the expiration of the response period required by the relevant patent office.

(4) The Contractor agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement: "This invention was made with Government support under (identify the contract) awarded by (identify the Federal agency). The Government has certain rights in this invention."

(5) The Contractor shall establish and maintain active and effective procedures to assure that subject inventions are promptly identified and disclosed to Contractor personnel responsible for patent matters within 6 months of conception and/or first actual reduction to practice, whichever occurs first in performance of work under this contract. These procedures shall include the maintenance of laboratory notebooks or equivalent records and other records as are reasonably necessary to document the conception and/or the first actual reduction to practice of subject inventions, and records that show that the procedures for identifying and disclosing the inventions are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of such procedures for evaluation and for determination as to their effectiveness.

(6) The Contractor agrees, when licensing a subject invention, to arrange to avoid royalty charges on acquisitions involving Government funds, including funds derived through Military Assistance Program of the Government or otherwise derived through the Government, to refund any amounts received as royalty charges on the subject invention in acquisitions for, or on behalf of, the Government, and to provide for such refund in any instrument transferring rights in the invention to any party.

(7) The Contractor shall furnish the Contracting Officer the following:

(i) Interim reports every 12 months (or such longer period as may be specified by the Contracting Officer) from the date of the contract, listing subject inventions during that period and stating that all subject inventions have been disclosed or that there are no such inventions.

(ii) A final report, within 3 months after completion of the contracted work, listing all subject inventions or stating that there were no such inventions, and listing all subcontracts at any tier containing a patent rights clause or stating that there were no such subcontracts.

(8) The Contractor shall promptly notify the Contracting Officer in writing upon the award of any subcontract at any tier containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Contracting Officer, the Contractor shall furnish a copy of such subcontract, and no more frequently than annually, a listing of the subcontracts that have been awarded.

(9) In the event of a refusal by a prospective subcontractor to accept one of the clauses in subparagraph (g)(1) or (2) below, the Contractor (i) shall promptly submit a written notice to the Contracting Officer setting forth the subcontractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter and (ii) shall not proceed with such subcontracting without the written authorization of the Contracting Officer.

(10) The Contractor shall provide, upon request, the filing date, serial number and title, a copy of the patent application (including an English-language version if filed in a language other than English), and patent number and issue date for any subject invention for which the Contractor has retained title.

(11) Upon request, the Contractor shall furnish the Government an irrevocable power to inspect and make copies of the patent application file.

(g) Subcontracts. (1) The Contractor shall include the clause at 52.227-11 of the Federal Acquisition Regulation (FAR), suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, or research work to be performed by a small business firm or nonprofit organization. The subcontractor shall retain all rights provided for the Contractor in this clause, and the Contractor shall not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) The Contractor shall include this clause (FAR 52.227-12) in all other subcontracts, regardless of tier, for experimental, developmental, or research work.

(3) In the case of subcontracts, at any tier, when the prime award with the Federal agency was a contract (but not a grant or cooperative agreement), the agency, subcontractor, and the Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Federal agency with respect to those matters covered by this clause.

(h) Reporting utilization of subject inventions. The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as the agency may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by the agency in connection with any march-in proceedings undertaken by the agency in accordance with paragraph (j) of this clause. To the extent data or information supplied under this paragraph is considered by the Contractor, its licensee or assignee to be privileged and confidential and is so marked, the agency agrees that, to the extent permitted by law, it shall not disclose such information to persons outside the Government.

(i) Preference for United States industry. Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Federal agency upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) March-in rights. The Contractor agrees that with respect to any subject invention in which it has acquired title, the Federal agency has the right in accordance with the procedures in FAR 27.304-1(g) to require the Contractor, an assignee, or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request, the Federal agency has the right to grant such a license itself if the Federal agency determines that--

(1) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) Special provisions for contracts with nonprofit organizations. [Reserved]

(l) Communications.

John Forrest
Patent Counsel Code 004
Naval Surface Warfare Center
Carderock Division

9500 MacArthur Boulevard
West Bethesda, MD 20817-5700
Telephone (301) 227-1835
email: ForrestJL@nswccd.navy.mil

(m) Other inventions. Nothing contained in this clause shall be deemed to grant to the Government any rights with respect to any invention other than a subject invention.

(n) Examination of records relating to inventions. (1) The Contracting Officer or any authorized representative shall, until 3 years after final payment under this contract, have the right to examine any books (including laboratory notebooks), records, and documents of the Contractor relating to the conception or first reduction to practice of inventions in the same field of technology as the work under this contract to determine whether--

(i) Any such inventions are subject inventions;

(ii) The Contractor has established and maintains the procedures required by subparagraphs (f)(2) and (f)(3) of this clause; and

(iii) The Contractor and its inventors have complied with the procedures.

(2) If the Contracting Officer determines that an inventor has not disclosed a subject invention to the Contractor in accordance with the procedures required by subparagraph (f)(5) of this clause, the Contracting Officer may, within 60 days after the determination, request title in accordance with subparagraphs (d)(2) and (d)(3) of this clause. However, if the Contractor establishes that the failure to disclose did not result from the Contractor's fault or negligence, the Contracting Officer shall not request title.

(3) If the Contracting Officer learns of an unreported Contractor invention which the Contracting Officer believes may be a subject invention, the Contractor may be required to disclose the invention to the agency for a determination of ownership rights.

(4) Any examination of records under this paragraph shall be subject to appropriate conditions to protect the confidentiality of the information involved.

(o) Withholding of payment (this paragraph does not apply to subcontracts). (1) Any time before final payment under this contract, the Contracting Officer may, in the Government's interest, withhold payment until a reserve not exceeding \$50,000 or 5 percent of the amount of the contract, whichever is less, shall have been set aside if, in the Contracting Officer's opinion, the Contractor fails to--

(i) Establish, maintain, and follow effective procedures for identifying and disclosing subject inventions pursuant to subparagraph (f)(5) above;

(ii) Disclose any subject invention pursuant to subparagraph (c)(1) above;

(iii) Deliver acceptable interim reports pursuant to subdivision (f)(7)(i) above; or

(iv) Provide the information regarding subcontracts pursuant to subparagraph (f)(8) of this clause.

(2) Such reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(3) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer all disclosures of subject inventions required by subparagraph (c)(1) above, an acceptable final report pursuant to subdivision (f)(7)(ii) above, and all past due confirmatory instruments.

(4) The Contracting Officer may decrease or increase the sums withheld up to the maximum authorized above. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or the subsequent payment thereof shall not be construed as a waiver of any Government right.

(End of clause)

52.244-2 SUBCONTRACTS (AUG 1998)

(a) Definitions. As used in this clause--

Approved purchasing system means a Contractor's purchasing system that has been reviewed and approved in accordance with Part 44 of the Federal Acquisition Regulation (FAR).

Consent to subcontract means the Contracting Officer's written consent for the Contractor to enter into a particular subcontract.

Subcontract means any contract, as defined in FAR Subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(b) This clause does not apply to subcontracts for special test equipment when the contract contains the clause at FAR 52.245-18, Special Test Equipment.

(c) When this clause is included in a fixed-price type contract, consent to subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (d) or (e) of this clause.

(d) If the Contractor does not have an approved purchasing system, consent to subcontract is required for any subcontract that--

(1) Is of the cost-reimbursement, time-and-materials, or labor-hour type; or

(2) Is fixed-price and exceeds--

(i) For a contract awarded by the Department of Defense, the Coast Guard, or the National Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of the contract; or

(ii) For a contract awarded by a civilian agency other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

(e) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer's written consent before placing the any subcontracts over \$250,000.00

(f)(1) The Contractor shall notify the Contracting Officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (c), (d), or (e) of this clause, including the following information:

(i) A description of the supplies or services to be subcontracted.

(ii) Identification of the type of subcontract to be used.

(iii) Identification of the proposed subcontractor.

(iv) The proposed subcontract price.

(v) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.

(vi) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.

(vii) A negotiation memorandum reflecting--

(A) The principal elements of the subcontract price negotiations;

(B) The most significant considerations controlling establishment of initial or revised prices;

(C) The reason cost or pricing data were or were not required;

(D) The extent, if any, to which the Contractor did not rely on the subcontractor's cost or pricing data in determining the price objective and in negotiating the final price;

(E) The extent to which it was recognized in the negotiation that the subcontractor's cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;

(F) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and

(G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(2) The Contractor is not required to notify the Contracting Officer in advance of entering into any subcontract for which consent is not required under paragraph (c), (d), or (e) of this clause.

(g) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination--

(1) Of the acceptability of any subcontract terms or conditions;

(2) Of the allowability of any cost under this contract; or

(3) To relieve the Contractor of any responsibility for performing this contract.

(h) No subcontract or modification thereof placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in FAR 15.404-4(c)(4)(i).

(i) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.

(j) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.

(k) Paragraphs (d) and (f) of this clause do not apply to the following subcontracts, which were evaluated during negotiations:

(To be specified at time of award)

(End of clause)

52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (MAR 2001)

(a) Definitions. As used this clause--

"Commercial item", has the meaning contained in the clause at 52.202-1, Definitions.

"Subcontract", includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c)(1) The following clauses shall be flowed down to subcontracts for commercial items:

(i) 52.219-8, Utilization of Small Business Concerns (OCT 2000) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (FEB 1999) (E.O. 11246).

(iii) 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (APR 1998) (38 U.S.C. 4212(a)).

(iv) 52.222-36, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793).

(v) 52.247-64, Preference for Privately Owned U.S.-Flagged Commercial Vessels (JUN 2000) (46 U.S.C. Appx 1241) (flowdown not required for subcontracts awarded beginning May 1, 1996).

(2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

52.245-5 GOVERNMENT PROPERTY (COST-REIMBURSEMENT, TIME-AND-MATERIAL, OR LABOR-HOUR CONTRACTS) (JAN 1986) (DEVIATION)

(a) Government-furnished property.

(1) The term "Contractor's managerial personnel," as used in paragraph (g) of this clause, means any of the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of--

(i) All or substantially all of the Contractor's business;

(ii) All or substantially all of the Contractor's operation at any one plant, or separate location at which the contract is being performed; or

(iii) A separate and complete major industrial operation connected with performing this contract.

(2) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the Government-furnished property described in the Schedule or specifications, together with such related

data and information as the Contractor may request and as may be reasonably required for the intended use of the property (hereinafter referred to as "Government-furnished property").

(3) The delivery or performance dates for this contract are based upon the expectation that Government-furnished property suitable for use will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet the contract's delivery or performance dates.

(4) If Government-furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt, notify the Contracting Officer, detailing the facts, and, as directed by the Contracting Officer and at Government expense, either effect repairs or modification or return or otherwise dispose of the property. After completing the directed action and upon written request of the Contractor, the Contracting Officer shall make an equitable adjustment as provided in paragraph (h) of this clause.

(5) If Government-furnished property is not delivered to the Contractor by the required time or times, the Contracting Officer shall, upon the Contractor's timely written request, make a determination of the delay, if any, caused the Contractor and shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(b) Changes in Government-furnished property. (1) The Contracting Officer may, by written notice, (i) decrease the Government-furnished property provided or to be provided under this contract or (ii) substitute other Government-furnished property for the property to be provided by the Government or to be acquired by the Contractor for the Government under this contract. The Contractor shall promptly take such action as the Contracting Officer may direct regarding the removal, shipment, or disposal of the property covered by this notice.

(2) Upon the Contractor's written request, the Contracting Officer shall make an equitable adjustment to the contract in accordance with paragraph (h) of this clause, if the Government has agreed in the Schedule to make such property available for performing this contract and there is any--

(i) Decrease or substitution in this property pursuant to subparagraph (b)(1) above; or

(ii) Withdrawal of authority to use property, if provided under any other contract or lease.

(c) Title. (1) The Government shall retain title to all Government-furnished property.

(2) Title to all property purchased by the Contractor for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract shall pass to and vest in the Government upon the vendor's delivery of such property.

(3) Title to all other property, the cost of which is reimbursable to the Contractor, shall pass to and vest in the Government upon--

(i) Issuance of the property for use in contract performance;

(ii) Commencement of processing of the property for use in contract performance; or

(iii) Reimbursement of the cost of the property by the Government, whichever occurs first.

(4) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (collectively referred to as "Government property"), are subject to the provisions of this clause. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.

(d) Use of Government property. The Government property shall be used only for performing this contract, unless otherwise provided in this contract or approved by the Contracting Officer.

(e) Property administration. (1) The Contractor shall be responsible and accountable for all Government property provided under the contract and shall comply with Federal Acquisition Regulation (FAR) Subpart 45.5, as in effect on the date of this contract.

(2) The Contractor shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with sound business practice and the applicable provisions of FAR Subpart 45.5.

(3) If damage occurs to Government property, the risk of which has been assumed by the Government under this contract, the Government shall replace the items or the Contractor shall make such repairs as the Government directs. However, if the Contractor cannot effect such repairs within the time required, the Contractor shall dispose of the property as directed by the Contracting Officer. When any property for which the Government is responsible is replaced or repaired, the Contracting Officer shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(f) Access. The Government and all its designees shall have access at all reasonable times to the premises in which any Government property is located for the purpose of inspecting the Government property.

(g) Limited risk of loss. (1) The Contractor shall not be liable for loss or destruction of, or damage to, the Government property provided under this contract or for expenses incidental to such loss, destruction, or damage, except as provided in subparagraphs (2) and (3) below.

(2) The Contractor shall be responsible for loss or destruction of, or damage to, the Government property provided under this contract (including expenses incidental to such loss, destruction, or damage)--

(i) That results from a risk expressly required to be insured under this contract, but only to the extent of the insurance required to be purchased and maintained or to the extent of insurance actually purchased and maintained, whichever is greater;

(ii) That results from a risk that is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement;

(iii) For which the Contractor is otherwise responsible under the express terms of this contract;

(iv) That results from willful misconduct or lack of good faith on the part of the Contractor's managerial personnel; or

(v) That results from a failure on the part of the Contractor, due to willful misconduct or lack of good faith on the part of the Contractor's managerial personnel, to establish and administer a program or system for the control, use, protection, preservation, maintenance, and repair of Government property as required by paragraph (e) of this clause.

(3)(i) If the Contractor fails to act as provided by subdivision (g)(2)(v) above, after being notified (by certified mail addressed to one of the Contractor's managerial personnel) of the Government's disapproval, withdrawal of approval, or nonacceptance of the system or program, it shall be conclusively presumed that such failure was due to willful misconduct or lack of good faith on the part of the Contractor's managerial personnel.

(ii) In such event, any loss or destruction of, or damage to, the Government property shall be presumed to have resulted from such failure unless the Contractor can establish by clear and convincing evidence that such loss, destruction, or damage--

(A) Did not result from the Contractor's failure to maintain an approved program or system; or

(B) Occurred while an approved program or system was maintained by the Contractor.

(4) If the Contractor transfers Government property to the possession and control of a subcontractor, the transfer shall not affect the liability of the Contractor for loss or destruction of, or damage to, the property as set forth above. However, the Contractor shall require the subcontractor to assume the risk of, and be responsible for, any loss or destruction of, or damage to, the property while in the subcontractor's possession or control, except to the extent that the subcontract, with the advance approval of the Contracting Officer, relieves the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received, except for reasonable wear and tear or for its use in accordance with the provisions of the prime contract.

(5) The Contractor shall notify the contracting officer upon loss or destruction of, or damage to, Government property provided under this contract, with the exception of low value property for which loss, damage, or destruction is reported at contract termination, completion, or when needed for continued contract performance. The Contractor shall take all reasonable action to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the affected Government property in the best possible order, and furnish to the Contracting Officer a statement of--

(i) The lost, destroyed, or damaged Government property;

(ii) The time and origin of the loss, destruction, or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

(6) The Contractor shall repair, renovate, and take such other action with respect to damaged Government property as the Contracting Officer directs. If the Government property is destroyed or damaged beyond practical repair, or is damaged and so commingled or combined with property of others (including the Contractor's) that separation is impractical, the Contractor may, with the approval of and subject to any conditions imposed by the Contracting Officer, sell such property for the account of the Government. Such sales may be made in order to minimize the loss to the Government, to permit the resumption of business, or to accomplish a similar purpose. The Contractor shall be entitled to an equitable adjustment in the contract price for the expenditures made in performing the obligations under this subparagraph (g)(6) in accordance with paragraph (h) of this clause. However, the Government may directly reimburse the loss and salvage organization for any of their charges. The Contracting Officer shall give due regard to the Contractor's liability under this paragraph (g) when making any such equitable adjustment.

(7) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance or of any reserve covering risk of loss or destruction of, or damage to, Government property, except to the extent that the Government may have expressly required the Contractor to carry such insurance under another provision of this contract.

(8) In the event the Contractor is reimbursed or otherwise compensated for any loss or destruction of, or damage to, Government property, the Contractor shall use the proceeds to repair, renovate, or replace the lost, destroyed, or damaged Government property or shall otherwise credit the proceeds to, or equitably reimburse, the Government, as directed by the Contracting Officer.

(9) The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any loss or destruction of, or damage to, Government property. Upon the request of the Contracting Officer, the Contractor shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where a subcontractor has not been relieved from liability for any loss or destruction of, or damage to, Government property, the Contractor shall enforce for the benefit of the Government the liability of the subcontractor for such loss, destruction, or damage.

(h) Equitable adjustment. When this clause specifies an equitable adjustment, it shall be made to any affected contract provision in accordance with the procedures of the Changes clause. When appropriate, the Contracting Officer may initiate an equitable adjustment in favor of the Government. The right to an equitable adjustment shall be the Contractor's exclusive remedy. The Government shall not be liable to suit for breach of contract for--

- (1) Any delay in delivery of Government-furnished property;
- (2) Delivery of Government-furnished property in a condition not suitable for its intended use;
- (3) A decrease in or substitution of Government-furnished property; or
- (4) Failure to repair or replace Government property for which the Government is responsible.

(i) Final accounting and disposition of Government property. Upon completing this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit, in a form acceptable to the Contracting Officer, inventory schedules covering all items of Government property not consumed in performing this contract or delivered to the Government. The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of the Government property as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the cost of the work covered by this contract or paid to the Government as directed by the Contracting Officer. The foregoing provisions shall apply to scrap from Government property; provided, however, that the Contracting Officer may authorize or direct the Contractor to omit from such inventory schedules any scrap consisting of faulty castings or forgings or of cutting and processing waste, such as chips, cuttings, borings, turnings, short ends, circles, trimmings, clippings, and remnants, and to dispose of such scrap in accordance with the Contractor's normal practice and account for it as a part of general overhead or other reimbursable costs in accordance with the Contractor's established accounting procedures.

(j) Abandonment and restoration of Contractor premises. Unless otherwise provided herein, the Government--

(1) May abandon any Government property in place, at which time all obligations of the Government regarding such abandoned property shall cease; and

(2) Has no obligation to restore or rehabilitate the Contractor's premises under any circumstances (e.g., abandonment, disposition upon completion of need, or contract completion). However, if the Government-furnished property (listed in the Schedule or specifications) is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (h) of this clause may properly include restoration or rehabilitation costs.

(k) Communications. All communications under this clause shall be in writing.

(l) Overseas contracts. If this contract is to be performed outside the United States of America, its territories, or possessions, the words "Government" and "Government-furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished," respectively.

52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

FAR clauses: <http://www.arnet.gov/far/>

DFAR clauses: <http://www.acq.osd.mil/dp/dars/dfars/dfars.html>

52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)

- (a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.
- (b) The use in this solicitation or contract of any DFARS (48 CFR Chapter 2) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

252.225-7008 SUPPLIES TO BE ACCORDED DUTY-FREE ENTRY (MAR 1998)

In accordance with paragraph (b) of the Duty-Free Entry clause of this contract, in addition to duty-free entry for all qualifying country supplies (end products and components) and all eligible end products subject to applicable trade agreements (if this contract contains the Buy American Act--Trade Agreements--Balance of Payments Program clause or the Buy American Act--North American Free Trade Agreement Implementation Act--Balance of Payments Program clause), the following foreign end products that are neither qualifying country end products nor eligible end products under a trade agreement, and the following nonqualifying country components, are accorded duty-free entry.

ALL

(End of Clause)

252.227-7013 RIGHTS IN TECHNICAL DATA--NONCOMMERCIAL ITEMS. (NOV 1995)

(a) Definitions. As used in this clause:

- (1) Computer data base means a collection of data recorded in a form capable of being processed by a computer. The term does not include computer software.
- (2) Computer program means a set of instructions, rules, or routines recorded in a form that is capable of causing a computer to perform a specific operation or series of operations.
- (3) Computer software means computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae and related material that would enable the software to be reproduced, recreated, or recompiled. Computer software does not include computer data bases or computer software documentation.
- (4) Computer software documentation means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.
- (5) Detailed manufacturing or process data means technical data that describe the steps, sequences, and conditions of manufacturing, processing or assembly used by the manufacturer to produce an item or component or to perform a process.
- (6) Developed means that an item, component, or process exists and is workable. Thus, the item or component must have been constructed or the process practiced. Workability is generally established when the item, component, or process has been analyzed or tested sufficiently to demonstrate to reasonable people skilled in the applicable art that there is a high probability that it will operate as intended. Whether, how much, and what type of analysis or testing is required to establish workability depends on the nature of the item, component, or process, and the state of the art.

To be considered "developed," the item, component, or process need not be at the stage where it could be offered for sale or sold on the commercial market, nor must the item, component, or process be actually reduced to practice within the meaning of Title 35 of the United States Code.

(7) Developed exclusively at private expense means development was accomplished entirely with costs charged to indirect cost pools, costs not allocated to a government contract, or any combination thereof.

(i) Private expense determinations should be made at the lowest practicable level.

(ii) Under fixed-price contracts, when total costs are greater than the firm-fixed-price or ceiling price of the contract, the additional development costs necessary to complete development shall not be considered when determining whether development was at government, private, or mixed expense.

(8) Developed exclusively with government funds means development was not accomplished exclusively or partially at private expense.

(9) Developed with mixed funding means development was accomplished partially with costs charged to indirect cost pools and/or costs not allocated to a government contract, and partially with costs charged directly to a government contract.

(10) Form, fit, and function data means technical data that describes the required overall physical, functional, and performance characteristics (along with the qualification requirements, if applicable) of an item, component, or process to the extent necessary to permit identification of physically and functionally interchangeable items.

(11) Government purpose means any activity in which the United States Government is a party, including cooperative agreements with international or multi-national defense organizations, or sales or transfers by the United States Government to foreign governments or international organizations. Government purposes include competitive procurement, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose technical data for commercial purposes or authorize others to do so.

(12) Government purpose rights means the rights to--

(i) Use, modify, reproduce, release, perform, display, or disclose technical data within the Government without restriction; and

(ii) Release or disclose technical data outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose that data for United States government purposes.

(13) Limited rights means the rights to use, modify, reproduce, release, perform, display, or disclose technical data, in whole or in part, within the Government. The Government may not, without the written permission of the party asserting limited rights, release or disclose the technical data outside the Government, use the technical data for manufacture, or authorize the technical data to be used by another party, except that the Government may reproduce, release or disclose such data or authorize the use or reproduction of the data by persons outside the Government if reproduction, release, disclosure, or use is--

(i) Necessary for emergency repair and overhaul; or

(ii) A release or disclosure of technical data (other than detailed manufacturing or process data) to, or use of such data by, a foreign government that is in the interest of the Government and is required for evaluational or informational purposes;

(iii) Subject to a prohibition on the further reproduction, release, disclosure, or use of the technical data; and

(iv) The contractor or subcontractor asserting the restriction is notified of such reproduction, release, disclosure, or use.

(14) Technical data means recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or data incidental to contract administration, such as financial and/or management information.

(15) Unlimited rights means rights to use, modify, reproduce, perform, display, release, or disclose technical data in whole or in part, in any manner, and for any purpose whatsoever, and to have or authorize others to do so.

(b) Rights in technical data. The Contractor grants or shall obtain for the Government the following royalty free, world-wide, nonexclusive, irrevocable license rights in technical data other than computer software documentation (see the Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation clause of this contract for rights in computer software documentation):

(1) Unlimited rights.

The Government shall have unlimited rights in technical data that are--

(i) Data pertaining to an item, component, or process which has been or will be developed exclusively with Government funds;

(ii) Studies, analyses, test data, or similar data produced for this contract, when the study, analysis, test, or similar work was specified as an element of performance;

(iii) Created exclusively with Government funds in the performance of a contract that does not require the development, manufacture, construction, or production of items, components, or processes;

(iv) Form, fit, and function data;

(v) Necessary for installation, operation, maintenance, or training purposes (other than detailed manufacturing or process data);

(vi) Corrections or changes to technical data furnished to the Contractor by the Government;

(vii) Otherwise publicly available or have been released or disclosed by the Contractor or subcontractor without restrictions on further use, release or disclosure, other than a release or disclosure resulting from the sale, transfer, or other assignment of interest in the technical data to another party or the sale or transfer of some or all of a business entity or its assets to another party;

(viii) Data in which the Government has obtained unlimited rights under another Government contract or as a result of negotiations; or

(ix) Data furnished to the Government, under this or any other Government contract or subcontract thereunder, with-

(A) Government purpose license rights or limited rights and the restrictive condition(s) has/have expired; or

(B) Government purpose rights and the Contractor's exclusive right to use such data for commercial purposes has expired.

(2) Government purpose rights.

(i) The Government shall have government purpose rights for a five-year period, or such other period as may be negotiated, in technical data--

(A) That pertain to items, components, or processes developed with mixed funding except when the Government is entitled to unlimited rights in such data as provided in paragraphs (b)(ii) and (b)(iv) through (b)(ix) of this clause; or

(B) Created with mixed funding in the performance of a contract that does not require the development, manufacture, construction, or production of items, components, or processes.

(ii) The five-year period, or such other period as may have been negotiated, shall commence upon execution of the contract, subcontract, letter contract (or similar contractual instrument), contract modification, or option exercise that required development of the items, components, or processes or creation of the data described in paragraph (b)(2)(i)(B) of this clause. Upon expiration of the five-year or other negotiated period, the Government shall have unlimited rights in the technical data.

(iii) The Government shall not release or disclose technical data in which it has government purpose rights unless-

(A) Prior to release or disclosure, the intended recipient is subject to the non-disclosure agreement at 227.7103-7 of the Defense Federal Acquisition Regulation Supplement (DFARS); or

(B) The recipient is a Government contractor receiving access to the data for performance of a Government contract that contains the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends.

(iv) The Contractor has the exclusive right, including the right to license others, to use technical data in which the Government has obtained government purpose rights under this contract for any commercial purpose during the time period specified in the government purpose rights legend prescribed in paragraph (f)(2) of this clause.

(3) Limited rights.

(i) Except as provided in paragraphs (b)(1)(ii) and (b)(1)(iv) through (b)(1)(ix) of this clause, the Government shall have limited rights in technical data--

(A) Pertaining to items, components, or processes developed exclusively at private expense and marked with the limited rights legend prescribed in paragraph (f) of this clause; or

(B) Created exclusively at private expense in the performance of a contract that does not require the development, manufacture, construction, or production of items, components, or processes.

(ii) The Government shall require a recipient of limited rights data for emergency repair or overhaul to destroy the data and all copies in its possession promptly following completion of the emergency repair/overhaul and to notify the Contractor that the data have been destroyed.

(iii) The Contractor, its subcontractors, and suppliers are not required to provide the Government additional rights to use, modify, reproduce, release, perform, display, or disclose technical data furnished to the Government with limited rights. However, if the Government desires to obtain additional rights in technical data in which it has limited rights, the Contractor agrees to promptly enter into negotiations with the Contracting Officer to determine whether there are acceptable terms for transferring such rights. All technical data in which the Contractor has granted the Government additional rights shall be listed or described in a license agreement made part of the contract. The license shall enumerate the additional rights granted the Government in such data.

(4) Specifically negotiated license rights.

The standard license rights granted to the Government under paragraphs (b)(1) through (b)(3) of this clause, including the period during which the Government shall have government purpose rights in technical data, may be modified by mutual agreement to provide such rights as the parties consider appropriate but shall not provide the

Government lesser rights than are enumerated in paragraph (a)(13) of this clause. Any rights so negotiated shall be identified in a license agreement made part of this contract.

(5) Prior government rights.

Technical data that will be delivered, furnished, or otherwise provided to the Government under this contract, in which the Government has previously obtained rights shall be delivered, furnished, or provided with the pre-existing rights, unless--

(i) The parties have agreed otherwise; or

(ii) Any restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose the data have expired or no longer apply.

(6) Release from liability.

The Contractor agrees to release the Government from liability for any release or disclosure of technical data made in accordance with paragraph (a)(13) or (b)(2)(iii) of this clause, in accordance with the terms of a license negotiated under paragraph (b)(4) of this clause, or by others to whom the recipient has released or disclosed the data and to seek relief solely from the party who has improperly used, modified, reproduced, released, performed, displayed, or disclosed Contractor data marked with restrictive legends.

(c) Contractor rights in technical data. All rights not granted to the Government are retained by the Contractor.

(d) Third party copyrighted data. The Contractor shall not, without the written approval of the Contracting Officer, incorporate any copyrighted data in the technical data to be delivered under this contract unless the Contractor is the copyright owner or has obtained for the Government the license rights necessary to perfect a license or licenses in the deliverable data of the appropriate scope set forth in paragraph (b) of this clause, and has affixed a statement of the license or licenses obtained on behalf of the Government and other persons to the data transmittal document.

(e) Identification and delivery of data to be furnished with restrictions on use, release, or disclosure. (1) This paragraph does not apply to restrictions based solely on copyright.

(2) Except as provided in paragraph (e)(3) of this clause, technical data that the Contractor asserts should be furnished to the Government with restrictions on use, release, or disclosure are identified in an attachment to this contract (the Attachment). The Contractor shall not deliver any data with restrictive markings unless the data are listed on the Attachment.

(3) In addition to the assertions made in the Attachment, other assertions may be identified after award when based on new information or inadvertent omissions unless the inadvertent omissions would have materially affected the source selection decision. Such identification and assertion shall be submitted to the Contracting Officer as soon as practicable prior to the scheduled date for delivery of the data, in the following format, and signed by an official authorized to contractually obligate the Contractor: Identification and Assertion of Restrictions on the Government's Use, Release, or Disclosure of Technical Data.

The Contractor asserts for itself, or the persons identified below, that the Government's rights to use, release, or disclose the following technical data should be restricted--

| Technical data to be Furnished With Restrictions \1/ | Basis for Assertion \2/ | Asserted Rights Category \3/ | Name of Person Asserting Restrictions \4/ |
|--|----------------------------|------------------------------------|---|
| (LIST) | (LIST) | (LIST) | (LIST) |

\1/ If the assertion is applicable to items, components or processes developed at private expense, identify both the data and each such items, component, or process.

\2/ Generally, the development of an item, component, or process at private expense, either exclusively or partially, is the only basis for asserting restrictions on the Government's rights to use, release, or disclose technical data pertaining to such items, components, or processes. Indicate whether development was exclusively or partially at private expense. If development was not at private expense, enter the specific reason for asserting that the Government's rights should be restricted.

\3/ Enter asserted rights category (e.g., government purpose license rights from a prior contract, rights in SBIR data generated under another contract, limited or government purpose rights under this or a prior contract, or specifically negotiated licenses).

\4/ Corporation, individual, or other person, as appropriate.

Date _____

Printed Name and Title _____

Signature _____

(End of identification and assertion)

(4) When requested by the Contracting Officer, the Contractor shall provide sufficient information to enable the Contracting Officer to evaluate the Contractor's assertions. The Contracting Officer reserves the right to add the Contractor's assertions to the Attachment and validate any listed assertion, at a later date, in accordance with the procedures of the Validation of Restrictive Markings on Technical Data clause of this contract.

(f) Marking requirements. The Contractor, and its subcontractors or suppliers, may only assert restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose technical data to be delivered under this contract by marking the deliverable data subject to restriction. Except as provided in paragraph (f)(5) of this clause, only the following legends are authorized under this contract: the government purpose rights legend at paragraph (f)(2) of this clause; the limited rights legend at paragraph (f)(3) of this clause; or the special license rights legend at paragraph (f)(4) of this clause; and/or a notice of copyright as prescribed under 17 U.S.C. 401 or 402.

(1) General marking instructions. The Contractor, or its subcontractors or suppliers, shall conspicuously and legibly mark the appropriate legend on all technical data that qualify for such markings. The authorized legends shall be placed on the transmittal document or storage container and, for printed material, each page of the printed material containing technical data for which restrictions are asserted. When only portions of a page of printed material are subject to the asserted restrictions, such portions shall be identified by circling, underscoring, with a note, or other appropriate identifier. Technical data transmitted directly from one computer or computer terminal to another shall contain a notice of asserted restrictions. Reproductions of technical data or any portions thereof subject to asserted restrictions shall also reproduce the asserted restrictions.

(2) Government purpose rights markings. Data delivered or otherwise furnished to the Government purpose rights shall be marked as follows:

Government Purpose Rights

Contract No. _____

Contractor Name _____

Contractor Address _____

Expiration Date _____

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these technical data are restricted by paragraph (b)(2) of the Rights in Technical Data--Noncommercial Items clause contained in the above identified contract. No restrictions apply after the expiration date shown above. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(3) Limited rights markings. Data delivered or otherwise furnished to the Government with limited rights shall be marked with the following legend:

Limited Rights

Contract No. _____

Contractor Name _____

Contractor Address _____

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these technical data are restricted by paragraph (b)(3) of the Rights in Technical Data--Noncommercial Items clause contained in the above identified contract. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings. Any person, other than the Government, who has been provided access to such data must promptly notify the above named Contractor.

(End of legend)

(4) Special license rights markings. (i) Data in which the Government's rights stem from a specifically negotiated license shall be marked with the following legend:

Special License Rights

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these data are restricted by Contract No. _____ (Insert contract number) _____, License No. _____ (Insert license identifier) _____. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(ii) For purposes of this clause, special licenses do not include government purpose license rights acquired under a prior contract (see paragraph (b)(5) of this clause).

(5) Pre-existing data markings. If the terms of a prior contract or license permitted the Contractor to restrict the Government's rights to use, modify, reproduce, release, perform, display, or disclose technical data deliverable under this contract, and those restrictions are still applicable, the Contractor may mark such data with the appropriate restrictive legend for which the data qualified under the prior contract or license. The marking procedures in paragraph (f)(1) of this clause shall be followed.

(g) Contractor procedures and records. Throughout performance of this contract, the Contractor and its subcontractors or suppliers that will deliver technical data with other than unlimited rights, shall--

(1) Have, maintain, and follow written procedures sufficient to assure that restrictive markings are used only when authorized by the terms of this clause; and

(2) Maintain records sufficient to justify the validity of any restrictive markings on technical data delivered under this contract.

(h) Removal of unjustified and nonconforming markings. (1) Unjustified technical data markings. The rights and obligations of the parties regarding the validation of restrictive markings on technical data furnished or to be furnished under this contract are contained in the Validation of Restrictive Markings on Technical Data clause of this contract. Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may ignore or, at the Contractor's expense, correct or strike a marking if, in accordance with the procedures in the Validation of Restrictive Markings on Technical Data clause of this contract, a restrictive marking is determined to be unjustified.

(2) Nonconforming technical data markings. A nonconforming marking is a marking placed on technical data delivered or otherwise furnished to the Government under this contract that is not in the format authorized by this contract. Correction of nonconforming markings is not subject to the validation of Restrictive Markings on Technical Data clause of this contract. If the Contracting Officer notifies the Contractor of a nonconforming marking and the Contractor fails to remove or correct such marking within sixty (60) days, the Government may ignore or, at the Contractor's expense, remove or correct any nonconforming marking.

(i) Relation to patents. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(j) Limitation on charges for rights in technical data. (1) The Contractor shall not charge to this contract any cost, including, but not limited to, license fees, royalties, or similar charges, for rights in technical data to be delivered under this contract when--

(i) The Government has acquired, by any means, the same or greater rights in the data; or

(ii) The data are available to the public without restrictions.

(2) The limitation in paragraph (j)(1) of this clause--

(i) Includes costs charged by a subcontractor or supplier, at any tier, or costs incurred by the Contractor to acquire rights in subcontractor or supplier technical data, if the subcontractor or supplier has been paid for such rights under any other Government contract or under a license conveying the rights to the Government; and

(ii) Does not include the reasonable costs of reproducing, handling, or mailing the documents or other media in which the technical data will be delivered.

(k) Applicability to subcontractors or suppliers. (1) The Contractor shall ensure that the rights afforded its subcontractors and suppliers under 10 U.S.C. 2320, 10 U.S.C. 2321, and the identification, assertion, and delivery processes of paragraph (e) of this clause are recognized and protected.

(2) Whenever any technical data for noncommercial items is to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in the subcontract or other contractual instrument, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties. No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher-tier subcontractor's or supplier's rights in a subcontractor's or supplier's technical data.

(3) Technical data required to be delivered by a subcontractor or supplier shall normally be delivered to the next higher-tier contractor, subcontractor, or supplier. However, when there is a requirement in the prime contract for data which may be submitted with other than unlimited rights by a subcontractor or supplier, then said subcontractor or supplier may fulfill its requirement by submitting such data directly to the Government, rather than through a higher-tier contractor, subcontractor, or supplier.

(4) The Contractor and higher-tier subcontractors or suppliers shall not use their power to award contracts as economic leverage to obtain rights in technical data from their subcontractors or suppliers. (5) In no event shall the Contractor use its obligation to recognize and protect subcontractor or supplier rights in technical data as an excuse for failing to satisfy its contractual obligations to the Government.

(End of clause)

252.227-7014 RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL COMPUTER SOFTWARE DOCUMENTATION. (JUN 1995)

(a) Definitions. As used in this clause:

(1) Commercial computer software means software developed or regularly used for nongovernmental purposes which--

(i) Has been sold, leased, or licensed to the public;

(ii) Has been offered for sale, lease, or license to the public;

(iii) Has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this contract; or

(iv) Satisfies a criterion expressed in paragraph (a)(1) (i), (ii), or (iii) of this clause and would require only minor modification to meet the requirements of this contract.

(2) Computer database means a collection of recorded data in a form capable of being processed by a computer. The term does not include computer software.

(3) Computer program means a set of instructions, rules, or routines, recorded in a form that is capable of causing a computer to perform a specific operation or series of operations.

(4) Computer software means computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the software to be reproduced, recreated, or recompiled. Computer software does not include computer databases or computer software documentation.

(5) Computer software documentation means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.

(6) Developed means that--

(i) A computer program has been successfully operated in a computer and tested to the extent sufficient to demonstrate to reasonable persons skilled in the art that the program can reasonably be expected to perform its intended purpose;

(ii) Computer software, other than computer programs, has been tested or analyzed to the extent sufficient to demonstrate to reasonable persons skilled in the art that the software can reasonably be expected to perform its

intended purpose; or

(iii) Computer software documentation required to be delivered under a contract has been written, in any medium, in sufficient detail to comply with requirements under that contract.

(7) Developed exclusively at private expense means development was accomplished entirely with costs charged to indirect cost pools, costs not allocated to a government contract, or any combination thereof.

(i) Private expense determinations should be made at the lowest practicable level.

(ii) Under fixed-price contracts, when total costs are greater than the firm-fixed-price or ceiling price of the contract, the additional development costs necessary to complete development shall not be considered when determining whether development was at government, private, or mixed expense.

(8) Developed exclusively with government funds means development was not accomplished exclusively or partially at private expense.

(9) Developed with mixed funding means development was accomplished partially with costs charged to indirect cost pools and/or costs not allocated to a government contract, and partially with costs charged directly to a government contract.

(10) Government purpose means any activity in which the United States Government is a party, including cooperative agreements with international or multi-national defense organizations or sales or transfers by the United States Government to foreign governments or international organizations. Government purposes include competitive procurement, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose computer software or computer software documentation for commercial purposes or authorize others to do so.

(11) Government purpose rights means the rights to--

(i) Use, modify, reproduce, release, perform, display, or disclose computer software or computer software documentation within the Government without restriction; and

(ii) Release or disclose computer software or computer software documentation outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose the software or documentation for United States government purposes.

(12) Minor modification means a modification that does not significantly alter the nongovernmental function or purpose of the software or is of the type customarily provided in the commercial marketplace.

(13) Noncommercial computer software means software that does not qualify as commercial computer software under paragraph (a)(1) of this clause.

(14) Restricted rights apply only to noncommercial computer software and mean the Government's rights to--

(i) Use a computer program with one computer at one time. The program may not be accessed by more than one terminal or central processing unit or time shared unless otherwise permitted by this contract;

(ii) Transfer a computer program to another Government agency without the further permission of the Contractor if the transferor destroys all copies of the program and related computer software documentation in its possession and notifies the licensor of the transfer. Transferred programs remain subject to the provisions of this clause;

(iii) Make the minimum number of copies of the computer software required for safekeeping (archive), backup, or modification purposes;

(iv) Modify computer software provided that the Government may--

(A) Use the modified software only as provided in paragraphs (a)(14) (i) and (iii) of this clause; and

(B) Not release or disclose the modified software except as provided in paragraphs (a)(14) (ii), (v) and (vi) of this clause;

(v) Permit contractors or subcontractors performing service contracts (see 37.101 of the Federal Acquisition Regulation) in support of this or a related contract to use computer software to diagnose and correct deficiencies in a computer program, to modify computer software to enable a computer program to be combined with, adapted to, or merged with other computer programs or when necessary to respond to urgent tactical situations, provided that--

(A) The Government notifies the party which has granted restricted rights that a release or disclosure to particular contractors or subcontractors was made;

(B) Such contractors or subcontractors are subject to the use and non-disclosure agreement at 227.7103-7 of the Defense Federal Acquisition Regulation Supplement (DFARS) or are Government contractors receiving access to the software for performance of a Government contract that contains the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends;

(C) The Government shall not permit the recipient to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (a)(14)(iv) of this clause, for any other purpose; and

(D) Such use is subject to the limitation in paragraph (a)(14)(i) of this clause; and

(vi) Permit contractors or subcontractors performing emergency repairs or overhaul of items or components of items procured under this or a related contract to use the computer software when necessary to perform the repairs or overhaul, or to modify the computer software to reflect the repairs or overhaul made, provided that--

(A) The intended recipient is subject to the use and nondisclosure agreement at DFARS 227.7103-7 or is a Government contractor receiving access to the software for performance of a Government contract that contains the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends; and

(B) The Government shall not permit the recipient to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (a)(14)(iv) of this clause, for any other purpose.

(15) Unlimited rights means rights to use, modify, reproduce, release, perform, display, or disclose computer software or computer software documentation in whole or in part, in any manner and for any purpose whatsoever, and to have or authorize others to do so.

(b) Rights in computer software or computer software documentation. The Contractor grants or shall obtain for the Government the following royalty free, world-wide, nonexclusive, irrevocable license rights in noncommercial computer software or computer software documentation. All rights not granted to the Government are retained by the Contractor.

(1) Unlimited rights. The Government shall have unlimited rights in--

(i) Computer software developed exclusively with Government funds;

(ii) Computer software documentation required to be delivered under this contract;

(iii) Corrections or changes to computer software or computer software documentation furnished to the Contractor by the Government;

(iv) Computer software or computer software documentation that is otherwise publicly available or has been released or disclosed by the Contractor or subcontractor without restriction on further use, release or disclosure, other than a release or disclosure resulting from the sale, transfer, or other assignment of interest in the software to another party or the sale or transfer of some or all of a business entity or its assets to another party;

(v) Computer software or computer software documentation obtained with unlimited rights under another Government contract or as a result of negotiations; or

(vi) Computer software or computer software documentation furnished to the Government, under this or any other Government contract or subcontract thereunder with--

(A) Restricted rights in computer software, limited rights in technical data, or government purpose license rights and the restrictive conditions have expired; or

(B) Government purpose rights and the Contractor's exclusive right to use such software or documentation for commercial purposes has expired.

(2) Government purpose rights. (i) Except as provided in paragraph (b)(1) of this clause, the Government shall have government purpose rights in computer software development with mixed funding.

(ii) Government purpose rights shall remain in effect for a period of five years unless a different period has been negotiated. Upon expiration of the five-year or other negotiated period, the Government shall have unlimited rights in the computer software or computer software documentation. The government purpose rights period shall commence upon execution of the contract, subcontract, letter contract (or similar contractual instrument), contract modification, or option exercise that required development of the computer software.

(iii) The Government shall not release or disclose computer software in which it has government purpose rights to any other person unless--

(A) Prior to release or disclosure, the intended recipient is subject to the use and non-disclosure agreement at DFARS 227.7103-7; or

(B) The recipient is a Government contractor receiving access to the software or documentation for performance of a Government contract that contains the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government Furnished Information Marked with Restrictive Legends.

(3) Restricted rights. (i) The Government shall have restricted rights in noncommercial computer software required to be delivered or otherwise provided to the Government under this contract that were developed exclusively at private expense.

(ii) The Contractor, its subcontractors, or suppliers are not required to provide the Government additional rights in noncommercial computer software delivered or otherwise provided to the Government with restricted rights. However, if the Government desires to obtain additional rights in such software, the Contractor agrees to promptly enter into negotiations with the Contracting Officer to determine whether there are acceptable terms for transferring such rights. All noncommercial computer software in which the Contractor has granted the Government additional rights shall be listed or described in a license agreement made part of the contract (see paragraph (b)(4) of this clause). The license shall enumerate the additional rights granted the Government.

(4) Specifically negotiated license rights. (i) The standard license rights granted to the Government under paragraphs (b)(1) through (b)(3) of this clause, including the period during which the Government shall have government purpose rights in computer software, may be modified by mutual agreement to provide such rights as the parties consider appropriate but shall not provide the Government lesser rights in computer software than are enumerated in paragraph (a)(14) of this clause or lesser rights in computer software documentation than are enumerated in paragraph (a)(13) of the Rights in Technical Data--Noncommercial Items clause of this contract.

(ii) Any rights so negotiated shall be identified in a license agreement made part of this contract.

(5) Prior government rights. Computer software or computer software documentation that will be delivered, furnished, or otherwise provided to the Government under this contract, in which the Government has previously obtained rights shall be delivered, furnished, or provided with the pre-existing rights, unless--

(i) The parties have agreed otherwise; or

(ii) Any restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose the data have expired or no longer apply.

(6) Release from liability. The Contractor agrees to release the Government from liability for any release or disclosure of computer software made in accordance with paragraph (a)(14) or (b)(2)(iii) of this clause, in accordance with the terms of a license negotiated under paragraph (b)(4) of this clause, or by others to whom the recipient has released or disclosed the software, and to seek relief solely from the party who has improperly used, modified, reproduced, released, performed, displayed, or disclosed Contractor software marked with restrictive legends.

(c) Rights in derivative computer software or computer software documentation. The Government shall retain its rights in the unchanged portions of any computer software or computer software documentation delivered under this contract that the Contractor uses to prepare, or includes in, derivative computer software or computer software documentation.

(d) Third party copyrighted computer software or computer software documentation. The Contractor shall not, without the written approval of the Contracting Officer, incorporate any copyrighted computer software or computer software documentation in the software or documentation to be delivered under this contract unless the Contractor is the copyright owner or has obtained for the Government the license rights necessary to perfect a license or licenses in the deliverable software or documentation of the appropriate scope set forth in paragraph (b) of this clause, and prior to delivery of such--

(1) Computer software, has provided a statement of the license rights obtained in a form acceptable to the Contracting Officer; or

(2) Computer software documentation, has affixed to the transmittal document a statement of the license rights obtained.

(e) Identification and delivery of computer software and computer software documentation to be furnished with restrictions on use, release, or disclosure. (1) This paragraph does not apply to restrictions based solely on copyright.

(2) Except as provided in paragraph (e)(3) of this clause, computer software that the Contractor asserts should be furnished to the Government with restrictions on use, release, or disclosure is identified in an attachment to this contract (the Attachment). The Contractor shall not deliver any software with restrictive markings unless the software is listed on the Attachment.

(3) In addition to the assertions made in the Attachment, other assertions may be identified after award when based on new information or inadvertent omissions unless the inadvertent omissions would have materially affected the source selection decision. Such identification and assertion shall be submitted to the Contracting Officer as soon as practicable prior to the scheduled date for delivery of the software, in the following format, and signed by an official authorized to contractually obligate the Contractor: Identification and Assertion of Restrictions on the Government's Use, Release, or Disclosure of Computer Software.

The Contractor asserts for itself, or the persons identified below, that the Government's rights to use, release, or disclose the following computer software should be restricted:

| Computer Software to be Fur- nished With Restrictions * | Basis for Assertion ** | Asserted Rights Category *** | Name of Person Asserting Restrictions **** |
|--|---------------------------|---------------------------------|---|
|--|---------------------------|---------------------------------|---|

* Generally, development at private expense, either exclusively or partially, is the only basis for asserting restrictions on the Government's rights to use, release, or disclose computer software.

** Indicate whether development was exclusively or partially at private expense. If development was not a private expense, enter the specific reason for asserting that the Government's rights should be restricted.

*** Enter asserted rights category (e.g., restricted or government purpose rights in computer software, government purpose license rights a prior contract, rights in SBIR software generated under another contract, or specifically negotiated licenses).

**** Corporation, individual, or other person, as appropriate.

Date

Printed Name and Title

Signature

End of identification and assertion)

(4) When requested by the Contracting Officer, the Contractor shall provide sufficient information to enable the Contracting Officer to evaluate the Contractor's assertions. The Contracting Officer reserves the right to add the Contractor's assertions to the Attachment and validate any listed assertion, at a later date, in accordance with the procedures of the Validation of Asserted Restrictions--Computer Software clause of this contract.

(f) Marking requirements. The Contractor, and its subcontractors or suppliers, may only assert restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose computer software by marking the deliverable software or documentation subject to restriction. Except as provided in paragraph (f)(5) of this clause, only the following legends are authorized under this contract; the government purpose rights legend at paragraph (f)(2) of this clause; the restricted rights legend at paragraph (f)(3) of this clause; or the special license rights legend at paragraph (f)(4) of this clause; and/or a notice of copyright as prescribed under 17 U.S.C. 401 or 402.

(1) General marking instructions. The Contractor, or its subcontractors or suppliers, shall conspicuously and legibly mark the appropriate legend on all computer software that qualify for such markings. The authorized legends shall be placed on the transmitted document or software storage container and each page, or portions thereof, of printed material containing computer software for which restrictions are asserted. Computer software transmitted directly from one computer or computer terminal to another shall contain a notice of asserted restrictions. However, instructions that interfere with or delay the operation of computer software in order to display a restrictive rights legend or other license statement at any time prior to or during use of the computer software, or otherwise cause such interference or delay, shall not be inserted in software that will or might be used in combat or situations that simulate combat conditions, unless the Contracting Officer's written permission to deliver such software has been obtained prior to delivery. Reproductions of computer software or any portions thereof subject to asserted restrictions, shall also reproduce the asserted restrictions.

(2) Government purpose rights markings. Computer software delivered or otherwise furnished to the Government with government purpose rights shall be marked as follows:

GOVERNMENT PURPOSE RIGHTS

Contract No.

Contractor Name

Contractor Address

Expiration Date

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted by paragraph (b)(2) of the Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation clause contained in the above identified contract. No restrictions apply after the expiration date shown above. Any reproduction of the software or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(3) Restricted rights markings. Software delivered or otherwise furnished to the Government with restricted rights shall be marked with the following legend:

RESTRICTED RIGHTS

Contract No.

Contractor Name

Contractor Address

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted by paragraph (b)(3) of the Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation clause contained in the above identified contract. Any reproduction of computer software or portions thereof marked with this legend must also reproduce the markings. Any person, other than the Government, who has been provided access to such software must promptly notify the above named Contractor.

(End of legend)

(4) Special license rights markings. (i) Computer software or computer documentation in which the Government's rights stem from a specifically negotiated license shall be marked with the following legend:

SPECIAL LICENSE RIGHTS

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted by Contract No. (Insert contract number), License No. (Insert license identifier). Any reproduction of computer software, computer software documentation, or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(ii) For purposes of this clause, special licenses do not include government purpose license rights acquired under a prior contract (see paragraph (b)(5) of this clause).

(5) Pre-existing markings. If the terms of a prior contract or license permitted the Contractor to restrict the Government's rights to use, modify, release, perform, display, or disclose computer software or computer software

documentation and those restrictions are still applicable, the Contractor may mark such software or documentation with the appropriate restrictive legend for which the software qualified under the prior contract or license. The marking procedures in paragraph (f)(1) of this clause shall be followed.

(g) Contractor procedures and records. Throughout performance of this contract, the Contractor and its subcontractors or suppliers that will deliver computer software or computer software documentation with other than unlimited rights, shall--

(1) Have, maintain, and follow written procedures sufficient to assure that restrictive markings are used only when authorized by the terms of this clause; and

(2) Maintain records sufficient to justify the validity of any restrictive markings on computer software or computer software documentation delivered under this contract.

(h) Removal of unjustified and nonconforming markings. (1) Unjustified computer software or computer software documentation markings. The rights and obligations of the parties regarding the validation of restrictive markings on computer software or computer software documentation furnished or to be furnished under this contract are contained in the Validation of Asserted Restrictions--Computer Software and the Validation of Restrictive Markings on Technical Data clauses of this contract, respectively. Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may ignore or, at the Contractor's expense, correct or strike a marking if, in accordance with the procedures of those clauses, a restrictive marking is determined to be unjustified.

(2) Nonconforming computer software or computer software documentation markings. A nonconforming marking is a marking placed on computer software or computer software documentation delivered or otherwise furnished to the Government under this contract that is not in the format authorized by this contract. Correction of nonconforming markings is not subject to the Validation of Asserted Restrictions--Computer Software or the Validation of Restrictive Markings on Technical Data clause of this contract. If the Contracting Officer notifies the Contractor of a nonconforming marking or markings and the Contractor fails to remove or correct such markings within sixty (60) days, the Government may ignore or, at the Contractor's expense, remove or correct any nonconforming markings.

(i) Relation to patents. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(j) Limitation on charges for rights in computer software or computer software documentation. (1) The Contractor shall not charge to this contract any cost, including but not limited to license fees, royalties, or similar charges, for rights in computer software or computer software documentation to be delivered under this contract when--

(i) The Government has acquired, by any means, the same or greater rights in the software or documentation; or

(ii) The software or documentation are available to the public without restrictions.

(2) The limitation in paragraph (j)(1) of this clause--

(i) Includes costs charged by a subcontractor or supplier, at any tier, or costs incurred by the Contractor to acquire rights in subcontractor or supplier computer software or computer software documentation, if the subcontractor or supplier has been paid for such rights under any other Government contract or under a license conveying the rights to the Government; and

(ii) Does not include the reasonable costs of reproducing, handling, or mailing the documents or other media in which the software or documentation will be delivered.

(k) Applicability to subcontractors or suppliers. (1) Whenever any noncommercial computer software or computer software documentation is to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in its subcontracts or other contractual instruments, and require its

subcontractors or suppliers to do so, without alteration, except to identify the parties. No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher tier subcontractor's or supplier's rights in a subcontractor's or supplier's computer software or computer software documentation.

(2) The Contractor and higher tier subcontractors or suppliers shall not use their power to award contracts as economic leverage to obtain rights in computer software or computer software documentation from their subcontractors or suppliers.

(3) The Contractor shall ensure that subcontractor or supplier rights are recognized and protected in the identification, assertion, and delivery processes required by paragraph (e) of this clause.

(4) In no event shall the Contractor use its obligation to recognize and protect subcontractor or supplier rights in computer software or computer software documentation as an excuse for failing to satisfy its contractual obligation to the Government.

(End of clause)

CONTRACTING OFFICER'S REPRESENTATIVE (COR) (JUN 1996) (NSWCCD)

(a) The COR for this contract is:

Name: (To be specified at time of award)

Mailing Address:

Code:

Telephone No.:

(b) The COR will act as the Contracting Officer's representative for technical matters, providing technical direction and discussion, as necessary, with respect to the specification or statement of work, and monitoring the progress and quality of contractor performance. The COR is not an Administrative Contracting Officer and does not have authority to direct the accomplishment of effort which is beyond the scope of the statement of work in the contract (or delivery/task order).

(c) When, in the opinion of the contractor, the COR requests effort outside the existing scope of the contract (or delivery/task order), the contractor shall promptly notify the contracting officer (or ordering officer) in writing. No action shall be taken by the contractor under such direction until the contracting officer has issued a modification to the contract (or in the case of a delivery/task order, until the ordering officer has issued a modification to the delivery/task order); or until the issue has been otherwise resolved.

ORGANIZATIONAL CONFLICT OF INTEREST (JUN 1996) (NSWCCD)

This provision provides examples of certain organizational conflicts of interest which are prescribed by Federal Acquisition Regulation Subpart 9.5. The two (2) underlying principles which this provision seeks to avoid are preventing the existence of conflicting roles that might bias a contractor's judgement and preventing unfair competitive advantage. The following subsections prescribe certain limitations on contracting as the means of avoiding, neutralizing or mitigating organizational conflicts of interest.

(a) If, under this contract, the contractor will provide systems engineering and technical direction for a system, but does not have overall contractual responsibility for its development, integration, assembly, checkout or production, the contractor shall not be awarded a subsequent contract to supply the system or any of its major components, or to act as consultant to a supplier of any system, subsystem, or major component utilized for or in connection with any item or other matter that is (directly or indirectly) the subject of the systems engineering and technical direction. The term of this prohibition shall endure for the entire period of this contract and for two (2) years thereafter.

(b) If, under this contract, the contractor will prepare and furnish complete specifications covering nondevelopmental items, to be used in a competitive acquisition, the contractor shall not be permitted to furnish these items, either as a prime or subcontractor. The term of this prohibition shall endure for the entire period of this contract performance and for either two (2) years thereafter or the duration of the initial production contract whichever is longer. This rule shall not apply to contractors who furnish specifications or data at Government request or to situations in which contractors act as Industry representatives to help Government agencies prepare, refine or coordinate specifications, provided this assistance is supervised and controlled by Government representatives.

(c) If, under this contract, the contractor will prepare or assist in preparing a work statement to be used in competitively acquiring a system or services, the contractor shall not supply the system, its major components, or the service unless the contractor is the sole source, the contractor has participated in the development and design work, or more than one contractor has been involved in preparing the work statement. The term of this prohibition shall endure for the entire period of this contract performance and for two years thereafter.

(d) If, under this contract, the contractor will provide technical evaluation of products or advisory and assistance services, the contractor shall not provide such services if the services relate to the contractor's own or a competitor's products or services unless proper safeguards are established to ensure objectivity.

(e) If, under this contract, the contractor gains access to proprietary or source selection information of other companies in performing advisory assistance services for the Government, the contractor agrees to protect this information from unauthorized use or disclosure and to refrain from using the information for any purpose other than that for which it was furnished. A separate agreement shall be entered into between the contractor and the company whose proprietary information is the subject of this restriction. A copy of this agreement shall be provided to the Contracting Officer.

ISSUANCE OF ORDERS BASED SOLELY ON GOVERNMENT ESTIMATE (MAY 1998) (NSWCCD)

(a) When the Government determines, in circumstances of emergency or exigency, that the need for specific supplies or services is unusually urgent, the Contracting Officer/Ordering Officer may issue an order based solely on the Government estimate, requiring the contractor to provide the supplies or services specified without having an opportunity to review the Government estimate before the order is issued. This type of order shall be a unilaterally priced order under which the requirement to provide supplies or services is subject to either the clause FAR 52.232-20, "Limitation of Cost" or FAR 52.232-22, "Limitation of Funds" applicable to the particular order involved.

(b) The unilaterally priced order shall specify the estimated cost and fee and the desired delivery schedule for the work being ordered. The Government's desired delivery shall apply unless the Contracting Officer/Ordering Officer receives written notification from the Contractor within fifteen (15) days after receipt of the order that the proposed delivery schedule is not acceptable. Such notification shall propose an alternative delivery schedule. The Contractor shall either provide written acceptance of the order or submit its cost proposal within thirty (30) days after receipt of the order. If the contractor provides written acceptance of the order as issued, it shall be considered negotiated and no bilateral modification shall be required.

(c) The contractor shall include in its proposal a statement of costs incurred and an estimate of costs expected to complete the work. Data supporting the accuracy and reliability of the cost estimate should also be included. After submission of the contractor's cost proposal and supporting data, the contractor and the Contracting Officer/Ordering Officer shall negotiate a bilateral modification to the original order finalizing the price and delivery schedule, which will be specified in a bilateral modification to the original order within 60 days after submission of the contractor's proposal.

(d) Should the Government and the contractor be unable to reach an agreement as to the terms of the order, the conflict shall be referred to the Contracting Officer who shall issue such direction as is required by the circumstances. If a bilateral agreement is not negotiated within sixty (60) days after submission of the contractor's cost proposal, the Contracting Officer/Ordering Officer will issue a modification to the unilaterally priced order

which establishes the Government's total estimated cost for the order. This price will remain in effect unless the contractor requests the price to be negotiated by submission of a proposal.

(e) Failure to arrive at an agreement shall be considered a dispute in accordance with the clause entitled "Disputes."

ISSUANCE OF ORDERS USING STREAMLINED PROCEDURES (MAY 1998) (NSWCCD)

(a) In general, orders will be issued under this contract using the following streamlined procedures:

(1) For each proposed order, the Contracting Officer/Ordering Officer will provide the contractor with a statement of work (SOW) and an independent Government cost estimate (IGCE).

(2) Within three (3) working days of receipt of the SOW and IGCE, the contractor will respond with a confirmation letter agreeing to perform the SOW within the IGCE. If the requirement remains valid and the Contracting Officer/Ordering Officer determines the IGCE to represent a fair and reasonable price, a fully negotiated, priced order will be issued to the contractor.

(3) If the contractor does not agree with the SOW and/or IGCE, a proposal will be submitted to the Contracting Officer/Ordering Officer within five (5) working days of receipt of the SOW and IGCE, addressing only the specific areas of differences. Once the differences are resolved between the Contracting Officer/Ordering Officer and the contractor, and the Contracting Officer/Ordering Officer determines that the price is fair and reasonable, a fully negotiated, priced order will be issued to the contractor.

(b) There may be occasions when the Government determines, in circumstances of emergency or exigency, that the need for specific supplies or services is unusually urgent. On such occasions, the Contracting Officer/Ordering Officer may issue an order based solely on the Government estimate, requiring the contractor to provide the supplies or services specified without having an opportunity to review the Government estimate before the order is issued. This type of order shall be a unilaterally priced order and processed in accordance with the clause entitled "Issuance of Orders Based Solely on Government Estimate" which appears elsewhere in this Section I.

LIMITATION OF LIABILITY/INCREMENTAL FUNDING (JUN 1996) (NSWCCD)

(a) This contract is incrementally funded and the amount currently available for payment hereunder is limited to (To be specified on individual Task Orders) inclusive of fee. It is estimated that these funds will cover the cost of performance through (To be specified on individual Task Orders). Subject to the provisions of the clause FAR 52.232-22, "Limitation of Funds (Apr 1984)" in Section I of this contract, no legal liability on the part of the Government for payment in excess of (To be specified on individual Task Orders) shall arise unless additional funds are made available and are incorporated as a modification to this contract.

(b) If an individual delivery/task order is to be incrementally funded, the provision will be applicable to such delivery/task order and will be completed with the appropriate amounts and date.

SUBSTITUTION OR ADDITION OF KEY PERSONNEL (JUN 1996) (NSWCCD)

(a) The contractor agrees to assign to the contract those persons whose resumes, personnel data forms or personnel qualification statements were submitted as required by Section L of the solicitation to fill the requirements of the contract. No substitutions or additions of personnel shall be made except in accordance with this provision.

(b) The contractor agrees that during the first 180 days of the contract performance period, no personnel substitutions or additions will be permitted unless such substitutions or additions are necessitated by an individual's

sudden illness, death or termination of employment. In any of these events, the contractor shall promptly notify the contracting officer and provide the information required by paragraph (d) below.

(c) If personnel for whatever reason become unavailable for work under the contract for a continuous period exceeding thirty (30) working days, or are expected to devote substantially less effort to the work than indicated in the proposal, the contractor shall propose a substitution of such personnel, in accordance with paragraph (d) below.

(d) All proposed substitutions or additions shall be submitted, in writing, to the Contracting Officer at least fifteen (15) days (thirty (30) days if a security clearance must be obtained) prior to the proposed substitution or addition. Each request shall provide a detailed explanation of the circumstances necessitating the proposed substitution or addition, and a complete resume, including annual salary, for the proposed substitute or addition as well as any other information required by the Contracting Officer to approve or disapprove the proposed substitution or addition. All proposed substitutes or additions (no matter when they are proposed during the performance period) shall have qualifications that are equal to or higher than the qualifications of the person being replaced or the average qualifications of the people in the category which is being added to.

(e) In the event a requirement to increase the specified level of effort for a designated labor category, but not the overall level of effort of the contract occurs, the contractor shall submit to the Contracting Officer a written request for approval to add personnel to the designated labor category. The information required is the same as that required in paragraph (d) above. The additional personnel shall have qualifications greater than or equal to at least one (1) of the individuals proposed for the designated labor category.

(f) The Contracting Officer shall evaluate requests for substitution and/or addition of personnel and promptly notify the contractor, in writing, of whether the request is approved or disapproved.

(g) If the Contracting Officer determines that suitable and timely replacement of personnel who have been reassigned, terminated or have otherwise become unavailable to perform under the contract is not reasonably forthcoming or that the resultant reduction of productive effort would impair the successful completion of the contract or the delivery/task order, the contract may be terminated by the Contracting Officer for default or for the convenience of the Government, as appropriate. Alternatively, at the Contracting Officer's discretion, if the Contracting Officer finds the contractor to be at fault for the condition, he may equitably adjust (downward) the contract price or fixed fee to compensate the Government for any delay, loss or damage as a result of the contractor's action.

AUTHORIZED CHANGES ONLY BY THE CONTRACTING OFFICER (JUN 1996) (NSWCCD)

(a) Except as specified in paragraph (b) below, no order, statement, or conduct of Government personnel who visit the Contractor's facilities or in any other manner communicates with Contractor personnel during the performance of this contract shall constitute a change under the "Changes" clause of this contract.

(b) The Contractor shall not comply with any order, direction or request of Government personnel unless it is issued in writing and signed by the Contracting Officer, or is pursuant to specific authority otherwise included as a part of this contract.

(c) The Contracting Officer is the only person authorized to approve changes in any of the requirements of this contract and notwithstanding provisions contained elsewhere in this contract, the said authority remains solely the Contracting Officer's. In the event the contractor effects any change at the direction of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any increase in charges incurred as a result thereof. The address and telephone number of the Contracting Officer is:

NAME : Elaine D. Weschler, Code 3321
 ADDRESS: 9500 MacArthur Boulevard
 West Bethesda, MD 20817-5700

TELEPHONE: (301) 227-1696

GOVERNMENT FURNISHED PROPERTY FOR INDEFINITE DELIVERY CONTRACTS (JUN 1996)
(NSWCCD)

(a) The Government will furnish the following property to the contractor for use in performance of this contract in accordance with the following schedule:

| <u>PROPERTY</u> | <u>QUANTITY</u> | <u>DATE</u> |
|-----------------|-----------------|-------------|
|-----------------|-----------------|-------------|

(To be specified on individual Task Orders)

(b) The property will be delivered at Government's expense at or near (To be specified on individual Task Orders).

(c) Only the property listed above in the quantity shown will be furnished by the Government. All other property required for performance of this contract shall be furnished by the contractor.

(d) Within thirty (30) days after Government furnished property is determined by the contractor to be lost, damaged, destroyed, no longer usable, or no longer needed for the performance of the contract, the contractor shall notify the Contracting Officer, in writing, thereof.

DATE/TIME PROCESSING REQUIREMENT--INFORMATION TECHNOLOGY (JUNE 2000)

(a) The Contractor warrants that all information technology (IT) (as defined at FAR 2.101), whether commercial or noncommercial, delivered under this contract that will be required to perform date/time processing involving dates subsequent to December 31, 1999, shall be Year 2000 compliant if properly installed, operated, and maintained in accordance with the contract specifications and applicable documentation. If the contract requires that specific deliverables operate together as a system, this warranty shall apply to those deliverables as a system.

(b) "Year 2000 compliant" (as defined at FAR 39.002) means that the IT accurately processes date/time data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other IT, used in combination with the IT being delivered, properly exchanges date/time data with it. The "proper exchange" of date/time data shall be in accordance with the interface requirements specification(s) of the contract.

(c) For line item deliverables which are commercial items (as defined at FAR 2.101), and which include commercial IT, the terms and conditions of the standard commercial warranty covering such commercial IT shall apply in addition to, and to the extent such terms and conditions are consistent with, this warranty. Any applicable commercial warranty shall be incorporated into this contract by attachment.

(d) Notwithstanding any provision to the contrary in other warranty requirement(s) of this contract, or in the absence of any such warranty requirement(s), the remedies available to the Government under this warranty shall include those provided in the Inspection clause(s) of this contract. Nothing in this warranty shall be construed to limit any rights or remedies the Government may otherwise have under this contract.

(e) Unless specified elsewhere in the contract, the Contractor will also deliver to the Government a report summarizing any Year 2000 compliance testing that was performed, and the results thereof.

(f) This warranty shall expire on 31 January 2001, or one hundred eighty (180) days after acceptance of the last deliverable IT item under this contract (including any option exercised hereunder), whichever is later.

SECTION J List of Documents, Exhibits and Other Attachments

The following documents are physically included in this solicitation document:

| | |
|--------------|--|
| DD Form 254 | Contract Security Classification Specification |
| DD Form 1423 | Contract Data Requirements List (CDRL) |
| DD Form 1664 | Data Item Description (DID) |
| | Past Performance Questionnaire |
| SF LLL | Disclosure of Lobbying Activities |

SECTION K Representations, Certifications and Other Statements of Offerors

CLAUSES INCORPORATED BY REFERENCE:

| | | |
|--------------|---|----------|
| 52.203-11 | Certification And Disclosure Regarding Payments To Influence Certain Federal Transactions | APR 1991 |
| 252.209-7003 | Compliance With Veterans' Employment Reporting Requirements | MAR 1998 |
| 252.227-7028 | Technical Data or Computer Software Previously Delivered to the Government | JUN 1995 |

CLAUSES INCORPORATED BY FULL TEXT

52.204-3 TAXPAYER IDENTIFICATION (OCT 1998)

(a) Definitions.

Common parent, as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

Taxpayer Identification Number (TIN), as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(d) Taxpayer Identification Number (TIN).

___ TIN:-----

___ TIN has been applied for.

___ TIN is not required because:

___ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

___ Offeror is an agency or instrumentality of a foreign government;

___ Offeror is an agency or instrumentality of the Federal Government.

(e) Type of organization.

- ___ Sole proprietorship;
- ___ Partnership;
- ___ Corporate entity (not tax-exempt);
- ___ Corporate entity (tax-exempt);
- ___ Government entity (Federal, State, or local);
- ___ Foreign government;
- ___ International organization per 26 CFR 1.6049-4;
- ___ Other-----

(f) Common parent.

- ___ Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.
- ___ Name and TIN of common parent:

Name-----

TIN-----

(End of provision)

52.204-5 WOMEN-OWNED BUSINESS (OTHER THAN SMALL BUSINESS) (MAY 1999)

(a) Definition. Women-owned business concern, as used in this provision, means a concern that is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

(b) Representation. [Complete only if the offeror is a women-owned business concern and has not represented itself as a small business concern in paragraph (b)(1) of FAR 52.219-1, Small Business Program Representations, of this solicitation.] The offeror represents that it () is a women-owned business concern.

(End of provision)

52.209-5 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (Jan 2001) **[This date stayed indefinitely. Please use the provision date below.]**

52.209-5 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (Apr 2001)

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that--

(i) The Offeror and/or any of its Principals--

(A) Are * are not * presently debarred, suspended, proposed for debarment, or declared

ineligible for the award of contracts by any Federal agency;

(B) Have * have not *, within the three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; **[This language stayed indefinitely. Please use paragraph (a)(1)(i)(D) below.]**

(C) Are * are not * presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision; and **[This language stayed indefinitely. Please use paragraph (a)(1)(i)(E) below.]**

(D) Have [] have not [], within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(E) Are [] are not [] presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(D) of this provision.

(ii)(A) **[This paragraph (a)(1)(ii) is stayed indefinitely.]** The offeror, aside from the offenses enumerated in paragraphs (a)(1)(i)(A), (B), and (C) of this provision, has * has not * within the past three years, relative to tax, labor and employment, environmental, antitrust, or consumer protection laws--

(1) Been convicted of a Federal or State felony (or has any Federal or State felony indictments currently pending against them); or

(2) Had a Federal court judgment in a civil case brought by the United States rendered against them; or

(3) Had an adverse decision by a Federal administrative law judge, board, or commission indicating a willful violation of law.

(B) If the offeror has responded affirmatively, the offeror shall provide additional information if requested by the Contracting Officer; and

(iii) The Offeror has * has not *, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

52.215-6 PLACE OF PERFORMANCE (OCT 1997)

[illegible]

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b) Representations. (1) The offeror represents as part of its offer that it () is, () is not a small business concern.

(2) (Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.) The offeror represents, for general statistical purposes, that it () is, () is not a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) (Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.) The offeror represents as part of its offer that it () is, () is not a women-owned small business concern.

(4) (Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.) The offeror represents as part of its offer that it () is, () is not a veteran-owned small business concern.

(5) (Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (b)(4) of this provision.) The offeror represents as part of its offer that it () is, () is not a service-disabled veteran-owned small business concern.

(6) (Complete only if offeror represented itself as small business concern in paragraph (b)(1) of this provision). The offeror represents, as part of its offer, that--

(i) It () is, () is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR Part 126; and

(ii) It () is, () is not a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (b)(6)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. (The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: _____.) Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(7) (Complete if offeror represented itself as disadvantaged in paragraph (b)(2) of this provision.) The offeror shall check the category in which its ownership falls:

() Black American.

() Hispanic American.

() Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).

() Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

() Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).

(c) Definitions. As used in this provision--

Service-disabled veteran-owned small business concern--

(1) Means a small business concern--

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"Small business concern," means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (a) of this provision.

Veteran-owned small business concern means a small business concern--

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned small business concern," means a small business concern --

(1) Which is at least 51 percent owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

(d) Notice.

(1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.

(2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, HUBZone small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to section 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall--

(i) Be punished by imposition of fine, imprisonment, or both;

(ii) Be subject to administrative remedies, including suspension and debarment; and

(iii) Be ineligible for participation in programs conducted under the authority of the Act.

52.222-22 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)

The offeror represents that --

(a) ☐ It has, ☐ has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;

(b) ☐ It has, ☐ has not, filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(End of provision)

52.222-25 AFFIRMATIVE ACTION COMPLIANCE (APR 1984)

The offeror represents that

- (a) ☐ it has developed and has on file, ☐ has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or
- (b) ☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(End of provision)

52.223-13 CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING (OCT 2000)

(a) Submission of this certification is a prerequisite for making or entering into this contract imposed by Executive Order 12969, August 8, 1995.

(b) By signing this offer, the offeror certifies that--

(1) As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), the offeror will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or

(2) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons: (Check each block that is applicable.)

☐ (i) The facility does not manufacture, process or otherwise use any toxic chemicals listed under section 313(c) of EPCRA, 42 U.S.C. 11023(c);

☐ (ii) The facility does not have 10 or more full-time employees as specified in section 313.(b)(1)(A) of EPCRA 42 U.S.C. 11023(b)(1)(A);

☐ (iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

☐ (iv) The facility does not fall within Standard Industrial Classification Code (SIC) major groups 20 through 39 or their corresponding North American Industry Classification System (NAICS) sectors 31 through 33; or

☐ (v) The facility is not located within any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, or any other territory or possession over which the United States has jurisdiction.

52.230-1 COST ACCOUNTING STANDARDS NOTICES AND CERTIFICATION (JUN 2000)

Note: This notice does not apply to small businesses or foreign governments. This notice is in three parts, identified by Roman numerals I through III.

Offerors shall examine each part and provide the requested information in order to determine Cost Accounting Standards (CAS) requirements applicable to any resultant contract.

If the offeror is an educational institution, Part II does not apply unless the contemplated contract will be subject to full or modified CAS coverage pursuant to 48 CFR 9903.201-2(c)(5) or 9903.201-2(c)(6), respectively.

I. DISCLOSURE STATEMENT--COST ACCOUNTING PRACTICES AND CERTIFICATION

(a) Any contract in excess of \$500,000 resulting from this solicitation will be subject to the requirements of the Cost Accounting Standards Board (48 CFR Chapter 99), except for those contracts which are exempt as specified in 48 CFR 9903.201-1.

(b) Any offeror submitting a proposal which, if accepted, will result in a contract subject to the requirements of 48 CFR Chapter 99 must, as a condition of contracting, submit a Disclosure Statement as required by 48 CFR 9903.202. When required, the Disclosure Statement must be submitted as a part of the offeror's proposal under this solicitation unless the offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal. If an applicable Disclosure Statement has already been submitted, the offeror may satisfy the requirement for submission by providing the information requested in paragraph (c) of Part I of this provision.

CAUTION: In the absence of specific regulations or agreement, a practice disclosed in a Disclosure Statement shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed-to practice for pricing proposals or accumulating and reporting contract performance cost data.

(c) Check the appropriate box below:

(1) Certificate of Concurrent Submission of Disclosure Statement.

The offeror hereby certifies that, as a part of the offer, copies of the Disclosure Statement have been submitted as follows: (i) original and one copy to the cognizant Administrative Contracting Officer (ACO) or cognizant Federal agency official authorized to act in that capacity (Federal official), as applicable, and (ii) one copy to the cognizant Federal auditor.

(Disclosure must be on Form No. CASB DS-1 or CASB DS-2, as applicable. Forms may be obtained from the cognizant ACO or Federal official and/or from the loose-leaf version of the Federal Acquisition Regulation.)

Date of Disclosure Statement: _____ Name and Address of Cognizant ACO or Federal Official
Where Filed: _____

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement.

(2) Certificate of Previously Submitted Disclosure Statement.

The offeror hereby certifies that the required Disclosure Statement was filed as follows:

Date of Disclosure Statement: _____ Name and Address of Cognizant ACO or Federal
Official Where Filed: _____

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable Disclosure Statement.

(3) Certificate of Monetary Exemption.

The offeror hereby certifies that the offeror, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards of negotiated prime contracts and subcontracts subject to CAS totaling more than \$50 million (of which at least one award exceeded \$1 million) in the cost accounting period immediately preceding the period in which this proposal was submitted. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

(4) Certificate of Interim Exemption.

The offeror hereby certifies that (i) the offeror first exceeded the monetary exemption for disclosure, as defined in (3) of this subsection, in the cost accounting period immediately preceding the period in which this offer was submitted and (ii) in accordance with 48 CFR 9903.202-1, the offeror is not yet required to submit a Disclosure Statement. The offeror further certifies that if an award resulting from this proposal has not been made within 90 days after the end of that period, the offeror will immediately submit a revised certificate to the Contracting Officer, in the form specified under subparagraph (c)(1) or (c)(2) of Part I of this provision, as appropriate, to verify submission of a completed Disclosure Statement.

CAUTION: Offerors currently required to disclose because they were awarded a CAS-covered prime contract or subcontract of \$50 million or more in the current cost accounting period may not claim this exemption (4). Further, the exemption applies only in connection with proposals submitted before expiration of the 90-day period following the cost accounting period in which the monetary exemption was exceeded.

II. COST ACCOUNTING STANDARDS--ELIGIBILITY FOR MODIFIED CONTRACT COVERAGE

If the offeror is eligible to use the modified provisions of 48 CFR 9903.201-2(b) and elects to do so, the offeror shall indicate by checking the box below. Checking the box below shall mean that the resultant contract is subject to the Disclosure and Consistency of Cost Accounting Practices clause in lieu of the Cost Accounting Standards clause.

☐ The offeror hereby claims an exemption from the Cost Accounting Standards clause under the provisions of 48 CFR 9903.201-2(b) and certifies that the offeror is eligible for use of the Disclosure and Consistency of Cost Accounting Practices clause because during the cost accounting period immediately preceding the period in which this proposal was submitted, the offeror received less than \$50 million in awards of CAS-covered prime contracts and subcontracts. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

CAUTION: An offeror may not claim the above eligibility for modified contract coverage if this proposal is expected to result in the award of a CAS-covered contract of \$50 million or more or if, during its current cost accounting period, the offeror has been awarded a single CAS-covered prime contract or subcontract of \$25 million or more.

III. ADDITIONAL COST ACCOUNTING STANDARDS APPLICABLE TO EXISTING CONTRACTS

The offeror shall indicate below whether award of the contemplated contract would, in accordance with subparagraph (a)(3) of the Cost Accounting Standards clause, require a change in established cost accounting practices affecting existing contracts and subcontracts.

☐ YES ☐ NO

(d) The Contractor shall include in all negotiated subcontracts which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts, of any tier, including the obligation to comply with all CAS in effect on the subcontractor's award date or if the subcontractor has submitted cost or pricing data, on the date of final agreement on price as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data. If the subcontract is awarded to a business unit which pursuant to 48 CFR 9903.201-3

is subject to other types of CAS coverage, the substance of the applicable clause set forth in subsection 30.201-4 of the Federal Acquisition Regulation shall be inserted. This requirement shall apply only to negotiated subcontracts in excess of \$500,000, except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in 48 CFR 9903.201-1.

(End of clause)

252.247-7022 REPRESENTATION OF EXTENT OF TRANSPORTATION BY SEA (AUG 1992)

(a) The Offeror shall indicate by checking the appropriate blank in paragraph (b) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term supplies is defined in the Transportation of Supplies by Sea clause of this solicitation.

(b) Representation. The Offeror represents that it:

____ (1) Does anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

____ (2) Does not anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

(c) Any contract resulting from this solicitation will include the Transportation of Supplies by Sea clause. If the Offeror represents that it will not use ocean transportation, the resulting contract will also include the Defense FAR Supplement clause at 252.247-7024, Notification of Transportation of Supplies by Sea.

(End of provision)

ELECTRONIC DISTRIBUTION OF CONTRACT DOCUMENTS (NOV 2000)

(a) The Navy Air Force Interface (NAFI) provides World Wide Web access to documents used to support the procurement, contract administration, bill paying, and accounting processes. NAFI is being used by the Naval Surface Warfare Center, Carderock Division to electronically distribute all contract award and contract modification documents, including task and delivery orders. The contractor's copy will be provided in portable document format (pdf) as an attachment to an e-mail that will be sent to the contractor by the NAFI system. A pdf file may be accessed using Adobe Acrobat Reader which is a free software that may be downloaded at <http://www.adobe.com/products/acrobat/readstep.html>.

(b) Offerors must provide the following information that will be used to make electronic distribution for any resultant contract.

Name of Point of Contact _____

Phone Number for Point of Contact _____

E-mail Address for Receipt of Electronic Distribution _____

SECTION L Instructions, Conditions and Notices to Bidders

CLAUSES INCORPORATED BY REFERENCE:

| | | |
|--------------|--|----------|
| 52.204-6 | Data Universal Numbering System (DUNS) Number | JUN 1999 |
| 52.215-1 | Instructions to Offerors--Competitive Acquisition | MAY 2001 |
| 52.222-24 | Preadward On-Site Equal Opportunity Compliance Evaluation | FEB 1999 |
| 252.227-7017 | Identification and Assertion of Use, Release, or Disclosure Restrictions | JUN 1995 |

CLAUSES INCORPORATED BY FULL TEXT

52.211-2 AVAILABILITY OF SPECIFICATIONS LISTED IN THE DOD INDEX OF SPECIFICATIONS AND STANDARDS (DODISS) AND DESCRIPTIONS LISTED IN THE ACQUISITION MANAGEMENT SYSTEMS AND DATA REQUIREMENTS CONTROL LIST, DOD 5010.12-L (DEC 1999)

Copies of specifications, standards, and data item descriptions cited in this solicitation may be obtained--

(a) From the ASSIST database via the Internet at <http://assist.daps.mil>; or

(b) By submitting a request to the--Department of Defense Single Stock Point (DoDSSP), Building 4, Section D, 700 Robbins Avenue, Philadelphia, PA 19111-5094, Telephone (215) 697-2667/2179, Facsimile (215) 697-1462.

(End of provision)

52.211-14 NOTICE OF PRIORITY RATING FOR NATIONAL DEFENSE USE (SEP 1990)

Any contract awarded as a result of this solicitation will be DX rated order; **X** DO rated order certified for national defense use under the Defense Priorities and Allocations System (DPAS) (15 CFR 700), and the Contractor will be required to follow all of the requirements of this regulation.

(End of provision)

52.216-1 TYPE OF CONTRACT (APR 1984)

The Government contemplates award of a Indefinite Delivery, Indefinite Quantity, Cost Plus Fixed Fee (Completion) Type contract resulting from this solicitation.

(End of clause)

52.233-2 SERVICE OF PROTEST (AUG 1996)

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from:

Elaine D. Weschler
Naval Surface Warfare Center
Carderock Division
Code 3321

Building 121 Room 214
9500 MacArthur Boulevard
West Bethesda MD 20817-5700

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of provision)

52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

FAR clauses: <http://www.arnet.gov/far/>

DFAR clauses: <http://www.acq.osd.mil/dp/dars/dfars/dfars.html>

SINGLE AWARD FOR ALL ITEMS (JUN 1996) (NSWCCD)

Due to the interrelationship of supplies and/or services to be provided hereunder, the Government reserves the right to make a single award to the offeror whose offer is considered in the best interest of the Government, price and other factors considered. Therefore, offerors proposing less than the entire effort specified herein may be determined to be unacceptable.

RESUME REQUIREMENTS (JUN 1996) (NSWCCD)

(a) The following information must be provided in the cost proposal, by lot or option, for each resume required to be submitted in the technical proposal:

- (1) estimated annual salary;
- (2) total estimated annual hours;
- (3) total estimated hour to be worked under the proposed contract.

Failure to provide this information may impact the Government's evaluation of contractors' proposals. If this information is proprietary to subcontractors, it may be provided under separate cover; however, it must be easily identifiable and readily combined with the rest of the proposal.

PROPOSAL PREPARATION REQUIREMENT

It is requested that offerors prepare their proposals in accordance with the following organization, content and format requirements to assist the government in making a complete and thorough evaluation of all proposals. Proposals shall be submitted as three separate documents, as follows:

| <u>Documents</u> | <u>Original</u> | <u>Copies</u> |
|--|-----------------|---------------|
| Solicitation, Offer and Award Document (SF-33) | 1 | 1 |
| Technical Proposal | 1 | 4 |
| Cost Proposal | 1 | 4 |

The "originals" shall be clearly identified as the "ORIGINAL", and bear the original signature(s) of the offeror. The "copies" shall be complete and clearly identified as "COPY" or "DUPLICATE".

In order to facilitate the evaluation process, it is requested that offerors also submit their cost proposal spreadsheets on diskette (in addition to the hard copy requirements stated above). Diskettes shall be in 3.5 inch, high density format, and it is requested that the spreadsheet files be compatible with Windows 95 Version 4.0, Excel 97 Version 8.0. The provision of these spreadsheet files on diskette in no way relinquishes the offerors responsibility to provide hard copies of the cost proposal.

(1) SOLICITATION, OFFER AND AWARD DOCUMENTS (SF-33 RFP)

This document, which may be used as part of the contract award document, shall be fully executed and returned as a separate document from the technical and cost proposals. Special attention should be taken to accurately enter the prices required in Section B, complete all Representations and Certifications in Section K and ensure that an authorized person signs the offer in Block 17 of Page 1.

The document SHALL NOT be embellished with any cover or binding. If the offeror makes any qualifications to any provisions in the RFP, all such qualifications shall be listed in a cover letter to the proposal. Qualifications may also be annotated on the Solicitation, Offer and Award document, if such annotation is necessary to clarify the qualifications.

(2) TECHNICAL PROPOSAL

The technical/management proposal should be written so that management and engineering oriented personnel can make a thorough evaluation and arrive at a sound determination as to whether the proposal meets the requirements of this solicitation. To this end, the technical proposal shall be so specific, detailed and complete as to clearly and fully demonstrate that the prospective contractor has a thorough understanding of the technical requirements contained in Section C of this solicitation.

Statements such as "the offeror understands," "will comply with the statement of work," "standard procedures will be employed," "well known techniques will be used" and general paraphrasing of the statement of work are considered inadequate. The technical proposal must provide details concerning what the contractor will do and how it will be done. This includes a full explanation of the techniques, disciplines, and procedures proposed to be followed.

The technical proposal shall not contain any reference to cost; however, information concerning labor allocation and categories, consultants, travel, materials, equipment and any information of interest to technical reviewers shall be contained in the technical proposal in sufficient detail so that the offeror's understanding of the scope of the work may be adequately evaluated. The technical proposal shall be page numbered, contain a table of contents, be organized in the following five (5) sections, and shall address in detail the following information:

| | |
|-----------|--------------------------------------|
| SECTION 1 | Key Personnel |
| SECTION 2 | Past Performance |
| SECTION 3 | Technical Approach/Capabilities Plan |
| SECTION 4 | Management Plan |
| SECTION 5 | Non-Key Personnel |

SECTION 1 - KEY PERSONNEL (Maximum length: 20 pp - not including resumes. Individual resumes shall not exceed 4 pp. in length)

In this section, the offeror shall identify proposed individual(s) for each labor position and indicate the tasks for which the person is proposed. Resumes shall be submitted for all key personnel to be assigned to the proposed contract. Resumes shall include the relevant qualifications, background and experience for all such key personnel in sufficient detail to demonstrate the capability of such personnel to accomplish the work described in the Statement

of Work. The work history of each key person should contain experience directly related to the tasks and functions he/she is intended to perform under the proposed contract.

Offerors shall indicate limitations on the availability of any proposed personnel, if any. If a proposed individual is currently employed by the offeror, the offeror shall discuss how they intend to cover the personnel requirements on this requirement, as well as any other contract(s) for which the proposed personnel are assigned, and indicate their availability (to work on this requirement) and their tenure. If the individual is not currently employed by the offeror, explain the rationale for proposing that person and include their letter of intent. Resumes shall be provided for all proposed subcontractor personnel and consultants, and the rationale for their use.

A summary table, in matrix format, shall also be provided to indicate personnel qualifications and experience.

NOTE: If subcontractors are to be used, resumes of the key personnel shall be included in this section, with the present company affiliation clearly identified. All of the requirements of this section shall apply to the use of subcontractor personnel, as well as the prime contractor's personnel.

All labor categories other than the Electrical/Instrumentation Technician, Mechanical Technician, and Clerk/Typist labor categories shall be proposed in the following levels: I, II, III, and IV. All key personnel are Level IV. The desired experience and education for each level and category are specified below:

Level I: Entry level position with minimal specific experience and education in the field ranging from college freshman to recent bachelors degree. This includes engineers in training and cooperative education students.

Level II: Junior level position. Between one to ten years of experience in the specific field with job examples in several technical or project management concentrations within the field. Education level shall be either a bachelors or a masters either at the field or a closely related field (including computational mathematics and physical sciences). An example of what would be considered a "closely related field" would be that a physicist with eight years of experience in electrical machinery design and a bachelors degree could qualify under the electrical engineering level II category.

Level III: Senior/Task Leader level position. More than ten years of experience in the specific field with job examples in several technical or project management concentrations within the field. Education level shall be either a master's or a Ph.D. either in the field or a closely related field.

Level IV: Expert/Program Manager level position. Education and general experience level meets the requirements of Level III. Additionally, this level shall have a demonstrated expertise in an area to warrant special recognition as an industry leader in the field or have demonstrated a capability to manage or control large scale projects/organizations, which focus primarily on the specifics of that field.

| <u>Key Personnel Labor Categories</u> | <u>Minimum Number of Resumes</u> |
|---------------------------------------|--------------------------------------|
| Mechanical Engineer IV | 2 |
| Electrical Engineer IV | 2 |
| Systems Engineer IV | 2 |

Project Director - The contractor shall identify a Project Director from among those personnel identified as key personnel to function as the principle point of contact for the contractor. The Project Director labor category may be filled by an individual proposed in the Mechanical, Electrical, or Systems Engineer IV labor categories.

The Project Director shall liaison with the contract COR on technical, management, financial and planning issues associated with all of the task orders placed against this contract and shall be responsible for reporting status, assigning personnel and ensuring work completion. The Project Director shall have the authority to discuss task order content on behalf of the contractor.

- a. **Mechanical Engineer** Levels IV (key), III, II, and I. A mechanical engineer should have education and experience in one or more of the broad technical areas defining a mechanical engineer. These areas include statics, dynamics, fluid flow, shock and vibration issues, thermal management, and/or packaging. Experience should be in conceptual and detailed design and multi-functional facilities and support systems for test and evaluation of submarine or surface ship structural configurations, machinery, and/or component designs in model and full scale.
- b. **Electrical Engineer** Levels IV (key), III, II, and I. An electrical engineer should have education and experience in one or more of the broad technical areas defining an electrical engineer. These areas include electric power generation, electric power distribution, electric power conversion, control system development, computer software and hardware design and implementation, circuit analysis, magnetics, and/or fiber optics. Experience should be in conceptual and detailed design and multi-functional facilities and support systems for test and evaluation of submarine or surface ship structural configurations, machinery, and/or component designs in model and full scale.
- c. **Systems Engineer** Levels IV (key), III, II, and I. A systems engineer should have education and experience in more than one of the broad technical areas defining a mechanical engineer, an electrical engineer, and/or materials sciences. These areas include integration of complex multifunctional devices, interface definition and verification, component and system level reliability/maintainability/availability, assessments of shipboard impacts, test case development and test program execution, requirements allocation, cost/benefit and life cycle cost analysis, and/or feasibility studies. Experience should be in conceptual and detailed design and multi-functional facilities and support systems for test and evaluation of submarine or surface ship structural configurations, machinery, and/or component designs in model and full scale.
- d. **Financial Analyst** Levels III, II and I. Experience in Government financial management systems including the Department of Defense Programming, Planning and Budgeting System. Experience in Navy laboratory financial management system development and implementation, ship RDT&E project financial planning and analysis across several categories of funds and funding sources, and development of financial management planning and support documentation for technical and institutional projects and programs. Experience in financial analysis and documentation development for multi-organizational RDT&E projects in ship design technology development areas. Experience in Navy laboratory financial management practices and procedures.
- e. **Electrical/Instrumentation Technician** Technical training in electronic technology and measurement instrumentation systems. Experience in measurement system installation, operation and maintenance for full and model scale naval vehicle experiments. Experience in naval vehicle experiment system development, acquisition, integration and documentation. Experience in naval vehicle T&E instrumentation applications involving both full and model scale experiments. Interprets sketches and drawings, connects and installs electrical systems, formulates recommendations for repairs.
- f. **Mechanical Technician** Technical training in machine design, component fabrication, and installation and repair of machine and piping systems and components. Experience in design, operation, maintenance, and fabrication of machinery systems. Experience in design and fabrication techniques for composite structural materials used in cryogenic, superconductive, and/or motor/generator systems. Interprets sketches and drawings, connects and aligns mechanical and piping systems (gears, bearings and shafts), formulates recommendations for repairs.
- g. **Clerk/Typist** General experience in office machine operation. Experience in the preparation of technical documentation using commercial automated word processing and graphics systems.

SECTION 2 - PAST PERFORMANCE (Maximum length: 20 pp.)

- a. A tabular and narrative synopsis of similar or related Government, military or commercial work ongoing or completed in the past three (3) years. The tabular portion of the synopsis shall be presented in the following format:
- Contract number
 - Type of contract
 - Contracting activity and address
 - Contracting Officer's name and telephone number

- Contracting activity technical point of contact name and telephone number
- Award price/cost
- Final price/cost
- Man-hours of effort
- Period of performance

The narrative portion of each contract synopsis should describe the effort related to the statement of work in terms of program planning and management; shipboard technology research; and component and system test and evaluation. The description should specify the nature of the work, similarities with the current proposed work, and the analysis, design, and test experience gained. A bullet matrix relating those contract numbers to the Pertinent Experience Elements described above should be presented. The narrative portion should also indicate any occurrence of cost growth and/or schedule delays encountered. The appearance of cost growths and/or schedule delays on past contracts must be explained.

b. The offeror shall demonstrate past performance in the following five areas:

1. Customer Satisfaction
2. Contract Compliance
3. Quality of Performance
4. Schedule Adherence
5. Cost Control

Each offeror has the opportunity to provide in its proposal any information regarding past performance on contracts similar to the Navy's requirement that it would like the Navy to consider.

For three (3) commercial or Government contracts completed within the last three (3) years for similar or related work, either as a prime or subcontract, the offeror shall send to the cognizant Procuring Contracting Officer (PCO), Administrative Contracting Officer (ACO), or Contracting Officer Representative (COR) a copy of Past Performance Questionnaire provided under Section J of the RFP. The completed questionnaires shall be completed by the PCO, ACO, or COR and forwarded directly to the following address not later than the closing date specified on the SF 33:

Naval Surface Warfare Center
Carderock Division
Code 3321 Lynn Rowe
Bldg 121 Room 200
9500 MacArthur Blvd
West Bethesda MD 20817-5700

The Past Performance Questionnaire may be faxed to Lynn Rowe on (301) 227-3476.

The Navy also intends to review the Contractor Performance Assessment Reporting System (CPARS) ratings of any offeror's performance of relevant contracts. In the event the Navy cannot obtain adequate CPARS rating information regarding a particular offeror, the Navy may review other relevant past performance information from sources other than those identified by the offeror. General trends in a contractor's performance will also be considered. Additionally, when subcontractors perform significant parts of the effort, their past performance may also be evaluated.

SECTION 3 - TECHNICAL APPROACH/CAPABILITIES PLAN (Maximum length: 35 pp.)

A Technical Approach/Capabilities Plan for fulfilling the requirements of the resultant contract should be addressed. The plan should address each technical element of the statement of work and how the contractor possesses the capability to achieve the requirements.

SECTION 4 - MANAGEMENT PLAN

The management plan for fulfilling the requirements of the resultant contract should be addressed. The plan should address the offeror's internal organization and managerial structure for executing task orders within the scope of the resultant contract, personnel assignment, and cost/schedule/technical progress control. The plan should address how the offeror intends to effectively and efficiently interface with the Navy technical points of contacts and ensure responsiveness to changing programmatic needs while remaining cognizant of the contractual relationship between the Government and the contractor (i.e.: resolving scope issues, ensuring personal services are not performed, ensuring no informal direction is followed by offeror personnel, and ensuring that unfunded efforts are not undertaken at assumed Government direction). The plan should address cost and expenditure control, and administrative procedures and monitoring.

The plan should address how internal policies and procedures will enable the Project Director to meet all of the requirements of Section C - Statement of Work. The plan should address how the offeror will interface with any subcontractor(s) and how the offeror will share efforts with subcontractor(s) in a manner to ensure the most capable personnel are working on assigned tasks.

SECTION 5 - NON-KEY PERSONNEL

The education and experience indicated for the "non-key" personnel are required for contract performance. Although offerors are not required to submit resumes for these categories they shall address whether they have such personnel available for work under the resultant contract who meet the stated qualifications.

(3) COST PROPOSAL

To assist the Government in determining cost reasonableness/realism for this effort, the offeror shall provide sufficient detailed cost information with the proposal to make this determination. In preparing the cost proposal, it is essential that the offeror breakout and identify separately for each year of the contract, the following types of cost elements listed below. The following is only an example of the various types of cost elements which may be applicable but not necessarily limited to:

Direct Labor Costs:

- (1) Information including the name, title, and actual hourly rate shall be provided by the Offeror for each individual proposed for the labor categories identified as key personnel. If the Offeror proposes direct labor rates based on a composite rate structure, then the Offeror shall clearly identify the individuals comprising the composite, their respective actual hourly rates, and method used to derive the composite rate.
- (2) If an Offeror's proposed labor category differs in name from those listed above, a chart shall be included which identifies how these categories correspond to the ones listed in the solicitation.
- (3) The Offeror shall identify any escalation rates utilized in the preparation of their cost proposal, and shall provide historical information pertaining to the actual escalation rate experienced over the past three (3) year period.
- (4) Offerors are reminded that the staff proposed in the technical proposal must be the same staff proposed in the cost proposal.
- (5) The Offeror shall provide a copy of the Employment Contract for any individual proposed who is not currently employed by the Offeror or subcontractor (if proposed).

Subcontracting Costs: The proposal shall include subcontract cost data in the same level of detail as provided for the offeror. Any subcontracting costs shall be supported. It is the Offeror's responsibility to ensure that this support documentation is received by the Government within the timeframe (i.e. closing date) established for this instant solicitation.

Consultants: If applicable, provide a detailed listing of consultants expected to be used, rationale for selection and associated costs which are proposed for reimbursement. Include those items of costs associated with consultants (i.e. hours proposed, and hourly rate). A copy of the Consultant Agreement shall also be provided by the Offeror.

Indirect Rates: Offerors shall list the cost elements that comprise the overhead, general and administrative expenses, and the other indirect pools. All indirect rates shall be summarized. Offerors shall list proposed indirect rates, DCAA recommended rates, and historical actuals (audited and unaudited) for the past three years. If proposed rates reflect negotiated forward pricing rates, a copy of the current forward pricing rate agreement shall be provided. If the rates are not negotiated forward pricing rates, then the basis for the proposed rates shall be explained.

Facilities Capital Cost of Money: If this cost element is proposed, the offeror shall provide information pertaining to the derivation of the FCCOM costs (i.e. FCCOM factors and application bases).

Fee: Identify the fee rate and total amount proposed and identify the various cost elements for which the fee is being applied.

Support Costs: These costs reflect all other direct costs under CLIN 0001 which are not labor costs. For proposal purposes, support costs are estimated at a total cost of **\$2,500,000.00** have been identified in Section B. Along with these costs, the Offeror may include a cost element associated with a G&A/handling rate associated with these costs. If a G&A/handling rate is proposed for these support costs, the Offeror shall identify these costs and their applicable rate. Lastly, It should be noted that all support costs are non-fee bearing costs and shall be excluding from the fee base.

Subcontracting: These costs reflect subcontracting costs which are not specifically identified at time of submission of the original proposal which may subsequently be required after contract award.. For proposal purposes, subcontracting is estimated at a total cost of **\$2,500,000.00** have been identified in Section B. Along with this cost, the Offeror may include a cost element associated with a G&A/handling rate associated with this cost. If a G&A/handling rate is proposed for subcontracting, the Offeror shall identify this cost and their applicable rate. Lastly, it should be noted that subcontracting costs for subcontracts identified after award are non-fee bearing costs and shall be excluding from the fee base.

The Government is contemplating issuance of an Indefinite Delivery, Indefinite Quantity, Cost Plus Fixed Fee (Completion) type contract which allows the issuance of Task Orders on a completion basis in lieu of level of effort or term. Completion type Delivery Orders require the contractor to complete and deliver a specified end product (such as hardware or a comprehensive final report) as a condition of payment of the entire fixed fee and within the originally estimated cost, if possible.

The Government may increase the estimated cost and direct the contractor to incur costs above the original estimated cost estimate without an increase in fee. However, during the solicitation and evaluation process prior to award, the Government must have an equal basis on which to evaluate proposals. To this end, when preparing and submitting proposals in response to this solicitation, offerors shall use the following labor categories and hours for each year of the five year period of performance:

(Note: The categories and hours listed below will not be included as part of the contract award document; however, the names and labor categories of Key Personnel proposed and accepted will be a part of the award as specified in **Section I, AGENCY SPECIFIC PROVISION - SUBSTITUTION OR ADDITION OF KEY PERSONNEL (JUN 1996) (NSWCCD)**)

| <u>Labor Categories</u> | <u>Hours per year</u> |
|------------------------------|-----------------------|
| Mechanical Engineer IV | 4,000 |
| Mechanical Engineer III | 7,000 |
| Mechanical Engineer III (OT) | 200 |
| Mechanical Engineer II | 8,000 |
| Mechanical Engineer II (OT) | 200 |

| | |
|--|--------|
| Mechanical Engineer I | 10,000 |
| Mechanical Engineer I (OT) | 200 |
| Electrical Engineer IV | 4,000 |
| Electrical Engineer III | 7,000 |
| Electrical Engineer III (OT) | 200 |
| Electrical Engineer II | 8,000 |
| Electrical Engineer II (OT) | 200 |
| Electrical Engineer I | 10,000 |
| Electrical Engineer I (OT) | 200 |
| System Engineer IV | 4,000 |
| System Engineer III | 7,000 |
| System Engineer III (OT) | 200 |
| System Engineer II | 8,000 |
| System Engineer II (OT) | 200 |
| System Engineer I | 10,000 |
| System Engineer I (OT) | 200 |
| Financial Analyst III | 1,000 |
| Financial Analyst II | 2,000 |
| Financial Analyst II (OT) | 200 |
| Financial Analyst I | 4,000 |
| Financial Analyst I (OT) | 400 |
| Electrical Instrumentation Technician II | 2,000 |
| Electrical Instrumentation Technician I | 8,000 |
| Electrical Instrumentation Technician I (OT) | 500 |
| Mechanical Technician II | 2,000 |
| Mechanical Technician I | 8,000 |
| Mechanical Technician I (OT) | 500 |
| Clerk Typist II | 2,000 |
| Clerk Typist I | 5,000 |

(OT) Overtime

SECTION M Evaluation Factors for Award

CLAUSES INCORPORATED BY FULL TEXT

AGENCY SPECIFIC PROVISION - EVALUATION OF PROPOSALS (AUG 1999) ALTERNATE I (AUG 1999) (NSWCCD)

(a) **General.** Careful, full and impartial consideration will be given to all offers received pursuant to this solicitation, and the evaluation will be applied in a similar manner. Factors against which offers will be evaluated (e.g., Technical Capability and Cost) are set forth below and parallel the solicitation response called for elsewhere herein.

(b) **Initial Evaluation of Offers.** An evaluation plan has been established to evaluate offers pursuant to the factors set forth in (g) below and all offers received will be evaluated by a team of Government personnel in accordance with the plan. All evaluation factors other than cost or price, when combined, are significantly more important than cost.

(c) **Evaluation Approach.** The following evaluation approach will be used:

(1) *Technical Proposal.* The evaluators will prepare a narrative description and assign a point score for each technical evaluation subfactor below. All evaluation factors other than cost or price will be combined into a merit rating of either acceptable, unacceptable but susceptible of being made acceptable, or unacceptable.

Sections 1 and 2 are of equal importance. Sections 1 and 2 are more important than Section 3. Section 3 is slightly more important than Section 4. Section 4 is substantially more important than Section 5.

SECTION 1 - Key Personnel **All categories required for key personnel are considered equal.** This subfactor shall be evaluated based on the demonstrated education and experience and requires the number of resumes as specified in Section L. Offeror's key personnel who do not meet the desired qualifications shall be scored downward as appropriate. All resumes for a particular category will be given weighted scores based on the hours proposed for each resume and then an overall average score will be derived for that category.

SECTION 2 - Past Performance

a. This subfactor shall be evaluated based on the offeror's past performance in terms of the program elements below. Does the description show similarities with the current proposed work, and does the past performance reflect the offeror's familiarity with analysis, design, and test experience? Has the offeror provided contracts related to the Program Elements shown below? If cost growths and/or schedule delays are identified, did the offeror address acceptable solutions to meet the requirements of the contracts?

Program Elements:

Program planning and management

Shipboard technology research,

Component and system test and evaluation

b. The Past Performance Questionnaire shall be evaluated based on the demonstrated past performance in the following areas as it relates to the program elements stated in a above:

1. Customer Satisfaction
2. Contract Compliance
3. Quality of Performance
4. Schedule Adherence

5. Cost Control

Past performance is required by FAR part 15 to be used to assess relative merit among proposals. The Government will evaluate the offeror's reputation for conforming to specifications and to standards of good workmanship, for accurately estimating and controlling costs, for adherence to contract schedules (including administrative aspects of performance), for reasonable and cooperative behavior and commitment to customer satisfaction and for having a business like concern for the interests of the customer. Be advised the Government may not contact all references or may seek/contact other references. For the particular offeror who lacks past performance history, the relative standing among offerors is based upon all other evaluation factors except past performance. Proposals will be given credit for good past performance lose credit for poor past performance, and neither receive nor lose credit for no past performance.

Assessment of the offeror's past performance will be one means of evaluating the credibility of the offeror's proposal and relative capability to meet performance requirements. Information may be obtained from the references listed in the proposal, and other customers known to the Government who may have useful and relevant information. Information will also be considered regarding any significant subcontractors. Evaluation of past performance will be based on consideration of all relevant facts and circumstances. The Government intends to award on initial offers received without discussions. However, if discussions are held, offerors determined to be in the competitive range will be given an opportunity to address unfavorable reports of past performance, if the offeror has not had a previous opportunity to review those reports.

SECTION 3 - Technical Approach/Capabilities Plan This subfactor shall be evaluated based upon the offeror's demonstrated ability to fulfill the requirements of the resultant contract. Does the plan address each technical element of the statement of work and does the contractor possess the capability to achieve the requirements?

SECTION 4 - Management Plan This subfactor shall be evaluated based upon the offeror's demonstrated ability to fulfill the requirements of the resultant contract. Does the plan address the offeror's internal organization and managerial structure for executing task orders within the scope of the resultant contract, personnel assignment, and cost/schedule/technical progress control? Does the plan address effective and efficient interface with the Navy technical points of contact, and ensure responsiveness to changing programmatic needs while remaining cognizant of the contractual relationship between the Government and the contractor? Does the plan address cost and expenditure control, and administrative procedures and monitoring?

Does the plan address internal policies and procedures to enable the Project Director to meet all of the requirements of Section C - Statement of Work? Does the plan address how the offeror will interface with any subcontractor(s) and how the offeror will share efforts with subcontractor(s) in a manner to ensure the most capable personnel are working on assigned tasks?

SECTION 5 - Non-Key Personnel This subfactor shall be evaluated based upon whether the offeror provided a statement that non-key personnel are available for work under the resultant contract who meet the stated qualifications.

(2) *Cost or Price Proposal.*

(i) Although cost or price is not scored, numerically weighted, or combined with the other evaluation factors to establish a merit rating, it will be evaluated for magnitude and realism. The determination of the magnitude of the cost proposal will be based on the total of all proposed costs. Cost realism is a determination of the probable cost of performance for each offeror. In those evaluations where all other evaluation factors, when combined, are significantly more important than cost or price, the degree of importance of the cost or price factor will increase with the degree of equality of the proposals in relation to the other factors on which selection is to be based.

(ii) Proposals which are unrealistic in terms of technical or schedule commitments or unrealistically high or low in cost may be deemed reflective of an inherent lack of technical competence, or indicative of a failure to comprehend the complexity and risks of the proposed work, and may be grounds for rejection of the proposal. If the proposed contract requires the delivery of data, the quality of organization and writing reflected in the proposal

will be considered to be an indication of the quality of organization and writing which would be prevalent in the proposed deliverable data. Subjective judgment on the part of the Government evaluators is implicit in the entire process. Throughout the evaluation, the Government will consider "correction potential" when a deficiency is identified.

(iii) In evaluating cost type offers, realism of the offeror's estimated cost will be considered. "Realism of Estimated Cost" is determined by reference to the costs which the offeror can reasonably be expected to incur in performance of the contract in accordance with the offer. Unrealistic personnel compensation rates (including issues regarding the applicability of uncompensated overtime) will be considered in the cost realism analysis and may be considered in the technical analysis which could reduce the technical score. The purpose of the evaluation is to: (1) verify the offeror's understanding of the requirements; (2) assess the degree to which the cost proposal reflects the approaches and/or risk that the offeror will provide the supplies or services at the proposed costs; and (3) assess the degree to which the cost included in the cost proposal accurately represents the effort described in the technical proposal. The proposed costs may be adjusted for purposes of evaluation based on the results of the cost realism evaluation. Unrealistic rates will be considered in the risk assessment and may result in a reduced technical score.

(3) Evaluation of Indirect Rates Applicable to Support Costs:

(i) The determination of the magnitude of the cost proposal will be based upon adding all proposed costs for CLIN 0001 plus support and subcontracting. It is intended to reimburse support and subcontract costs on the basis of actual reasonable and allowable costs incurred plus G&A only (no fee). Therefore, for evaluation purposes, the Government will add the offeror's proposed G&A rate to the not-to-exceed (NTE) amounts specified for support and subcontract costs.

(ii) If the offeror's DCAA approved accounting system includes the application on any other indirect cost rates (in addition to G&A) to the support and subcontract cost items, those rates shall be identified in the proposal and will also be added to the respective NTE amount specified for purposes of evaluation. An example would be when the offeror's approved accounting system includes application of a material handling fee to direct material costs and then application of a G&A rate to the subtotal of direct materials plus the material handling fee.

(iii) If an offeror fails to identify, as part of its proposal, an indirect cost rate what would otherwise be applicable to one of the support and subcontract cost items, it shall not be allowed to invoice for the indirect rate after award since the evaluation of its offer did not include that rate.

(iv) Notwithstanding the fact that the Government will add proposed indirect cost rates to the support and subcontract cost NTE amounts specified, it will do so for evaluation purposes only and will not actually change the NTE amount at time of award. Rather, the contract will indicate that the NTE amounts are inclusive of G&A and whatever other indirect rates the offeror has identified in its proposal, and which were considered in evaluation of that offer.

(v) If proposed indirect rates on support and subcontract costs are not consistent with DCAA information for that offeror, the proposed rates may be adjusted for realism when applied for evaluation purposes.

(d) Competitive Acquisition Instructions.

(1) If the provision FAR 52.215-1, "Instructions To Offerors--Competitive Acquisition" is included in Section L of this solicitation, the Government intends to evaluate proposals and award a contract without discussions with offerors (except clarifications as described in FAR 15.306(a)). Therefore, the offeror's initial proposal should contain the offeror's best terms from a cost or price and technical standpoint. However, the Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary.

(2) If the provision at FAR 52.215-1 is used with its Alternate I, the Government intends to evaluate proposals and award a contract after conducting with offerors whose proposals have been determined to be in the competitive range.

(3) In either of the above two situations, if the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.

(e) **Discussion/Final Proposal Revisions.** The Contracting Officer shall indicate to, or discuss with, each offeror still being considered for award, significant weaknesses, deficiencies, and other aspects of its proposal (such as cost, price, technical approach, past performance, and terms and conditions) that could, in the opinion of the Contracting Officer, be altered or explained to enhance materially the proposal's potential for award. The scope and extent of discussions are a matter of Contracting Officer judgment. At the conclusion of discussions, each offeror still in the competitive range shall be given an opportunity to submit a final proposal revision. A final cut-off date for receipt of final proposal revisions will be established by the Contracting Officer.

(f) **Basis for Contract Award.** The basis for award of a contract(s) as a result of this solicitation will be an integrated assessment by the Contracting Officer of the results of the evaluation based on the evaluation factors and their importance as indicated below. The integrated assessment may include consideration of the strengths and weaknesses of the proposals, and, if deemed necessary by the Contracting Officer, consideration of various types of mathematical models comparing technical points and cost. Ultimately, the source selection decision will take into account the offeror's capability to meet the requirements of this solicitation on a timely and cost effective basis. The Government reserves such right of flexibility in conducting the evaluation as is necessary to assure placement of a contract in the Government's best interest. Accordingly, the Government may award any resulting contract to other than the lowest priced offeror, or other than the offeror with the highest evaluation rating.

(1) The contract resulting from this solicitation will be awarded to that responsible offeror whose offer, conforming to the solicitation, is determined most advantageous to the Government, cost and other factors considered.

(2) All evaluation factors other than cost or price, when combined, are significantly more important than cost.

(g) **Evaluation Factors.** The evaluation factors and significant subfactors are listed below in both descending order and degree of relative importance.

1. Key Personnel
2. Past Performance
3. Technical Approach/ Capabilities Plan
4. Management Plan
5. Non-Key Personnel